

**APPLE VALLEY
ORDINANCE O-2020-02**

AMENDMENT TO 10.04.010 HOME OCCUPATION DEFINITION

WHEREAS, The Planning Commission of the Town of Apple Valley desires to expand the definition of Home Occupation in the town code; and

WHEREAS, The Planning Commission of the Town of Apple Valley held a public hearing on December 11, 2019 to hear public comment about changes to section 10.04.010; and

WHEREAS, the Planning Commission listened to the comments made and recommended changes to the definition of Home Occupation to the Town Council of the Town of Apple Valley; and

WHEREAS, Upon review of the Planning Commission's recommendation, the Town Attorney recommended some wording changes for clarity, not intent, and

WHEREAS, The Town Council has reviewed the Planning Commission's and Town Attorney's recommendation and has determined that these amendments are in the best interest of the health, safety, and welfare of the citizens of the Town of Apple Valley; and

WHEREAS, at a meeting of the Town Council of Apple Valley, Utah, duly called, notice and held on the 6th day of January, 2020, and upon motion duly made and seconded:

NOW THEREFORE, be it ordained by the Council of Apple Valley, in the State of Utah, that Land Use Code 10.04.010 is as follows:

SECTION 1: **AMENDMENT** "10.04.010 Terms Defined" of the Apple Valley Land Use is hereby *amended* as follows:

A M E N D M E N T

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. Only legal permanent occupants of the residence may work in or on the residential property. All business related uses and storage shall be limited to the interior of the dwelling unit or accessory building. ~~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. Up to 100% of the accessory building may 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.

PASSED AND ADOPTED BY THE APPLE VALLEY COUNCIL JANUARY 06, 2020.

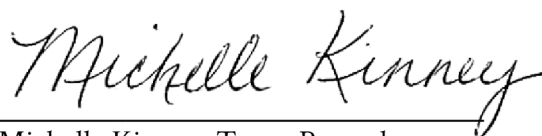
	AYE	NAY	ABSENT	ABSTAIN
Councilmember Bass	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Councilmember Edwardson	<u> </u>	<u> </u>	<u>X</u>	<u> </u>
Councilmember McLaughlin	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Councilmember Kopp	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Mayor Lisonbee	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

Presiding Officer

Attest



Marty Lisonbee, Mayor, Apple Valley



Michelle Kinney, Town Recorder
Apple Valley