

ORDINANCE NO. 416

AN ORDINANCE OF THE TOWN COUNCIL OF THE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 8 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING CHAPTERS 8.10, 8.12, 8.14, 8.16, 8.18, 8.21, 8.22, AND 8.26, ADDING CHAPTERS 8.13 AND 8.15, ADOPTING AS MODIFIED THE 2010 EDITION OF THE CALIFORNIA BUILDING CODE VOLUMES 1, 2 INCLUDING THE APPENDIX AND STANDARDS, THE 2010 EDITION OF THE CALIFORNIA ELECTRICAL CODE, THE 2010 EDITION OF THE CALIFORNIA PLUMBING CODE, THE 2010 EDITION OF THE CALIFORNIA MECHANICAL CODE, THE 2010 EDITION OF THE CALIFORNIA GREEN BUILDING CODE, THE 2010 EDITION OF THE CALIFORNIA RESIDENTIAL CODE, THE 2009 EDITION SOLAR ENERGY CODE AND ADOPTING OTHER REGULATIONS RELATING TO BUILDING REQUIREMENTS.

The Town Council of the Town of Apple Valley, California does ordain as follows:

SECTION 1. FINDINGS

(a) Government Code Sections 50022.1 et. Seq., provide that ordinances and codes of the Federal, State, or any agency of either of them, may be adopted by reference, provided that prior to such adoption by reference a noticed public hearing has been held; and

(b) A copy of these codes and standards was filed with the office of the Town Clerk 15 days prior to the noticed public hearing.

(c) A noticed public hearing has been held by the Town Council, at which time all interested persons had the opportunity to appear and be heard on the matter of adopting by reference the current editions of certain model codes, as follows: California Building Code, 2010 Edition, Volumes 1, 2, with Appendices; California Electrical Code, 2010 Edition; California Plumbing Code, 2010 Edition; California Mechanical Code, 2010 Edition; California Residential Code, 2010 Edition, California Green Building Code, 2010 Edition Uniform Solar Energy Code, 2006 Edition; and the International Property Maintenance Code 2006 Edition.

SECTION 2. All prior enactments of the Town which are in conflict with this ordinance, including Ordinance Nos. 181 & 361 are hereby repealed, effective upon the date of which this Ordinance becomes effective and operative.

SECTION 3. Continuing Effect. Notwithstanding Section 2 of this Ordinance, this Ordinance shall be construed as a continuation of said prior enactments as the same may have been heretofore amended from time to time, and compliance therewith prior to the effective date hereof shall be deemed to be compliance with the Ordinance unless provided otherwise herein.

SECTION 4. Chapter 8.10 of Title 8 of the Town of Apple Valley Municipal Code is hereby amended to read as follows:

**Chapter 8.10
General**

Sections:

8.10.010	Application of Title
8.10.020	Purpose
8.10.030	Scope
8.10.040	Fees
8.10.050	Substitution of References
8.10.060	Copies
8.10.070	Administration of Title
8.10.080	Validity of Permits
8.10.090	Remedies Cumulative
8.10.100	Annual Permits
8.10.110	Penalty for Violation
8.10.120	Interpretation, Legal Procedure, and Penalties
8.10.130	Adoption of Supplements

8.10.010 Application of Title. The provisions of this Title 8 shall apply to all buildings, structures and building service equipment within the Town and to all parts thereof except as specifically or by necessary implication provided otherwise in this Title.

8.10.020 Purpose. The purpose of this Title is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating the design, construction, quality of materials, use and occupancy, location and maintenance of buildings, equipment, structures and grading within the Town; the electrical, plumbing, heating, comfort cooling and certain other equipment specifically regulated herein; and the moving of buildings within, into, from and through the Town.

8.10.030 Scope. The provisions of this Title shall apply to the construction, alteration, moving, demolition, repair and use of all buildings, equipment, and structures within the Town, except such as is exempted by law from regulation by the Town.

Additions, alterations, repairs, moving and changes of use or occupancy in all buildings and structures shall comply with the provisions for new buildings and structures, except as otherwise provided in this Title.

Where in any specific case different sections of this Title specify different materials, methods of construction or installation, or other requirements, those providing the greater safety to life or limb, property welfare shall prevail. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

8.10.040 Fees.

(a) Fees authorized by this Title, or by a code adopted by reference in this Title, shall be established by ordinance or resolution of the Town in accordance with applicable law. The provisions of such resolution or ordinance shall govern in the event of an inconsistency between the resolution or ordinance and an adopted code.

(b) If a fee is authorized and established by a code adopted by This Title but the amount thereof has not been separately established by ordinance or resolution of the Town Council, then the amount of the authorized fee set forth in the incorporated code shall be assessed and collected.

(c) A permit paid for by check or warrant which is dishonored for any reason shall be automatically revoked.

8.10.050 Substitutions of References. Whenever in any of the Uniform California Codes adopted in this Division, or on or in any location there appears a reference to the following names or terms, those names or terms shall be deemed and construed as follows, to wit:

(a) City of or any other similar reference to a political entity shall mean the incorporated territory of the Town of Apple Valley.

(b) "Director of Building and Safety", "Electrical Safety Engineer", "Administrative Authority" or any other similar term which makes reference to the individual official, board, department, or agency created by law to administer and enforce the provisions of the Codes adopted herein shall mean the Building Official and his or her Authorized Assistants.

(c) "City Council" shall mean the Town Council of the Town of Apple Valley.

8.10.060 Copies. One copy of each Uniform Code adopted by this Title shall be kept on file in the office of the Town Clerk for reference use by the public.

8.10.070 Administration of Title. The Building Official shall administer the provisions of this Title.

8.10.080 Validity of Permits. Permits required by this Title shall be issued only in accordance with the provisions hereof. Any permit issued contrary to the provisions of this title shall be void and of no effect.

8.10.090 Remedies Cumulative. Remedies provided to the Town for violations of this Title are cumulative with other remedies available to the Town, whether set forth in this Title or elsewhere. The convictions and punishment of a person for violating any provision of this Title shall not relieve such person of the obligation to comply herewith in all respects.

8.10.100 Annual Permits.

(a) (1) Where any person, firm or corporation in the course of normal maintenance procedures proposes to install, alter or repair any electrical wiring, devices, appliances, plumbing, drainage systems, septic tanks, seepage pits, leaching lines, heating, ventilating, refrigeration or water conservation equipment in an existing facility located on property under the direct control of such person, firm or corporation and is able to, and does in fact, furnish inspection service which meets the requirements and rules and regulations of the Town of Apple Valley Municipal Code, and whose operations are under the continuous supervision of a professional engineer or engineers, duly registered with and

licensed by the State of California, such person, firm or corporation shall not be required to obtain approval at each consecutive inspection step of the installation, alteration or repair but shall be required only to obtain an annual permit or annual permits and assure that the work in progress is accessible to the Building Official for such periodic inspections as he or she may deem necessary.

(2) The fee for each separate Annual Permit (Electrical, Plumbing, Mechanical) shall be based upon the number of employees doing work in the crafts covered in each Annual Permit in accordance with the Town of Apple Valley Municipal Code Schedule of Fees or such other applicable Town enactment.

(3) The designated responsible supervising engineer shall file with the Building Official a written report specifying the work done under the issued Annual Permit. Such written report shall be filed with the Building Official within thirty (30) days following the end of the fiscal year for which the permit was issued.

8.10.110 Penalty for Violation. Where work for which a permit is required by the codes herein adopted is started or proceeded without first obtaining the required permit, a permit shall not be issued until all past due enforcement costs are paid. The enforcement costs are the actual costs, as specified in the Town of Apple Valley Municipal Code Schedule of Fees, or other applicable Town enactment, and must be paid on demand. The Building Official may use any legal means available to collect enforcement fees. The payment of such enforcement fees shall not relieve any persons from fully complying with the requirements of these Codes in the execution of the work nor from any other penalties prescribed herein. Any section in any of the codes herein adopted which is in conflict with this Section is hereby repealed.

8.10.120 Interpretation, Legal Procedure, and Penalties.

(a) Interpretation. In interpreting and applying the provisions of this Title, said provisions shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare.

(b) Penalties.

(1) Any buildings or structures erected or maintained, or any use of property contrary to the provisions of this Title shall be and the same is hereby declared to be unlawful and a public nuisance and the Town Attorney may, upon request of the Building Official, immediately commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof in the manner provided by law and shall take such steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such building, structure, or use, and restrain and enjoin any person from erecting or maintaining such building or structure or using any property contrary to the provisions of this Division.

(2) All remedies provided for herein shall be cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve such person from the responsibility of correcting prohibited conditions or removing prohibited buildings, structures or improvements, nor prevent the enforced correction or removal thereof.

(3) All other provisions of the Town Municipal Code notwithstanding, any person violating or causing or permitting the violation of any of the provisions of this Chapter, or of any permit or exception granted hereunder, shall be guilty of an infraction or misdemeanor as hereinafter specified, and upon conviction thereof, shall be punished in accordance with the provisions of Sections 1.01.200 through 1.01.230 of Chapter 1.01 of Title 1 of this Code.

Notwithstanding the above, a first or second offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein provided shall not relieve a person from the responsibility of correcting the condition resulting from the violation. In addition to the above penalties the Court may order that the guilty person reimburse the Town for all of its costs for investigation, analysis and prosecution of the enforcement action against the guilty person. The Court shall fix the amount of any such reimbursements upon submission of proof of such costs by the Town.

(4) A Notice of Pendency of Administrative Action or Proceeding may be filed in the County Recorder's Office at the time of commencement of action or proceeding or at any time before final judgment or order. The County Clerk shall record and index the pendency of action in the name of each person specified in the action or proceedings. After all required work has been completed and approved, the Building Official shall cause to be recorded in the Office of the County Recorder a document terminating the above Notice.

(5) In the event that any person, firm or corporation shall fail, neglect or refuse to demolish, remove, abate or correct a structure or condition existing in violation of this Title upon his or her or its property after a civil court order or criminal conviction obtained pursuant to this Section, the Town Manager may order the Building Official to demolish, remove, abate or correct the offending structure or condition. A statement of the cost of such work shall be transmitted to the Town Manager who shall cause the same to be paid and levied as a special assessment against the property.

8.10.130 Adoption of Supplements. All Supplements to The California Building Code, The California Electrical Code, The California Plumbing Code, The California Mechanical Code, The California Residential Code, The California Green Building Code, The Uniform Solar Energy Code, The International Property Maintenance Code are hereby adopted and shall be applied to all development within the jurisdiction of the Town except that provisions which are inconsistent with this Title, or as to which the underlying provisions have been deleted by this Title, shall not be enforced or applied.

SECTION 5. Chapter 8.12 entitled "California Building Code" is hereby amended to read as follows:

Chapter 8.12

CALIFORNIA BUILDING CODE

Sections

Section 8.12.010 Adopted. The California Building Code, Volumes 1 & 2 2010 Edition, as published by the California Building Standards Commission, including the Appendix and the Standards referred to therein, is hereby adopted and made part of this Chapter by reference, with the following modifications.

- (1) Appendix Chapters A, B, C, D, E and K are deleted
- (2) Chapter 1, Division I I, is hereby amended to read as follows:

Section 104.8 Liability. The Building Official, or his/her authorized representative, charged with the enforcement of this Code, acting in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of act or omission in the discharge of such duties. A suit brought against the Building Official, agent or employee in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the code enforcement agency shall be defended by this jurisdiction until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by this jurisdiction.

The provisions of this section shall apply if the Building Official or his/her authorized representative are employees of this jurisdiction and shall also apply if the Building Official or his/her authorized representative are acting under contract as agents of the jurisdiction.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this code or any permits or certificates issued under this code."

Section 105.5 Expiration Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended, abandoned or uncompleted for a period of 180 days after the work has commenced or 180 days past the last required inspection. The building official is authorized to grant one extension of time for not more than 180 days. The extension shall be requested in writing and justifiable cause demonstrated. No permit shall be extended more than once.

If work has been suspended or abandoned past 180 days the permit shall be expired and new permit(s) issued. The fee for such renewal of permit(s) shall be one half of the original permit fee or one half of the fee of the current adopted fee schedule at the time of renewal. Permits which have been abandoned and require only final inspection may be reissued at minimum fee or as determined by the building official.

- (4) A new subsection 105.8 Deadline for Onsite and/or

Offsite Improvements is added to Chapter 1, Division II Subsection 105 to read as follows:

“Section 105.8 Deadline for Onsite and/or Offsite Improvements.

(1) Onsite and/or Offsite Improvements required by the terms of the Municipal Code, Development Code, or other ordinances or applicable policies or regulations adopted by the Town, must be completed and approved prior to occupancy or prior to connection of utilities. A cash deposit may be submitted in lieu of onsite improvements if necessitated by climatic conditions, coordination of utilities or improvements, material shortages or labor strike.

(2) A cash deposit may be submitted in lieu of offsite improvements under the following conditions:

(a) To facilitate preparations of the building(s) for an occupancy, utilities may be permitted to be connected provided the improvements are completed and approved prior to final occupancy approval.

(b) If necessitated by climatic conditions, coordination of utilities or improvements, material shortages or labor strike, the cash deposit for the improvements may be increased to permit connection of the utilities and occupancy provided a Certificate of Occupancy will not be issued until the improvements are completed and approved.”

Section 109.6 Refunds Refund’s for permit’s issued in error or permits issued for which no work has been started and have not been expired shall be 80% of the permit fee or as authorized by the building official.

Section 113.3 Board of Appeals Qualifications The Town Council shall act as the Board of Appeals.

(5) Appendix Chapter J, of the California Building Code 2010 edition is amended to read as follows:

Section J 103. Permits Required No person shall do any grading without first having obtained a grading permit from the Building Official except for the following:

1. Cemetery Graves
2. Refuse disposal sites controlled by other regulations.
3. Excavations for wells or tunnels or utilities.
4. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in pressure upon any adjacent or contiguous property.

5 Exploratory excavations under the direction of soil engineers or engineering geologists.

6. Excavation for construction of a structure permitted under this code.

Section J103.3 Unsafe Grading Sites. All sites which constitute a hazard to safety or health or public welfare by reason of inadequate maintenance, or abandonment, or noncompliance with approved grading plans as specified in this Code are for the purposes of this Chapter unsafe grading sites. Further, whenever the Building Official determines by inspection that a site is dangerous to human life or property by reason of being located in an area which is unsafe due to a hazard from landslide, mudslide, settlement, displacement or slippage, such site shall for the purpose of this Chapter be considered unsafe, whether or not grading earth work has been performed. All such unsafe grading sites are hereby declared to be public nuisances and shall be abated by repair, in accordance with the procedures as set forth in Section 115 of the California Building Code Chapter 1 Division II and Section 8.10.120 of the Municipal Code.”

Section J110. Erosion Control.

Section J110.1.1 Slopes. The faces of cut and fill slopes shall be prepared and maintained to control against erosion. This control may consist of effective planting. The protection for the slopes shall be installed as soon as practicable and prior to calling for final approval. Where cut slopes are not subject to erosion due to the erosion resistant character of the materials, such protection may be omitted.

Section J110.1.2.2 Wind Erosion Control Plans Required.

A written wind erosion control plan shall be submitted to the Building Official for approval prior to the issuance of a grading permit. This plan shall employ the use of one or more of the following measures:

- (1) Grading of tracts in small phases to minimize the amount of bare ground exposed at any one time;
- (2) The requirement to have water trucks on site and that they be used on a regular basis;
- (3) The use of approved chemical additives to water stabilize the soil crust;
- (4) The use of hydro seeding.

The Building Official may at any time during or after grading has taken place require additional erosion measures be implemented if the measures contained in the wind erosion control plan are not achieving the desired result of preventing wind erosion of the soil.”

“Section J110.2.3 Water Erosion Control Plans Required.

A written water erosion control plan shall be submitted to the Building Official for approval for any grading performed. Water erosion control measures shall be required to be in place during this time period for all active grading projects and, if the Building Official deems it appropriate, any previously graded projects

A new Section J 112 is hereby added to Appendix Chapter J of the Appendix to The California Building Code, 2010 Edition, to read as follows:

“Section J112 Grading Compatibility Review.

J 112.1.1 Plans for single lot grading which are not part of a land subdivision grading plan shall be reviewed for approval by the Assistant Director of Community Development when any of the following exist:

- (1) Fills or cuts greater than 4 feet in height or depth from existing grade are proposed; or
- (2) A combination cut/fill slope having greater than 4 feet in vertical height is proposed; or
- (3) An area of 13,000 square feet or more is proposed to be graded unless:
 - (a) It is determined by the Town Engineer that an area greater than 13,000 square feet is required to be graded for drainage purposes; or
 - (b) The lot is 18,000 square feet or less in area with an average slope of five percent (5%) or less and the grading is necessary as determined by the Town Engineer to help reduce the amount of import or export of dirt required to grade the site; or
- (4) Grading is proposed on slopes having a fifteen percent (15%) or greater grade.

Section J112.1.2 Assistant Director of Community Development’s review and subsequent approval of the grading plans shall be based upon the following findings:

- (1) That the proposed grading conforms to the Town’s policy goal of preserving the extent feasible the natural contours of the land;.
- (2) That the proposed grading conforms to the Town’s policy goal of minimizing land disturbance caused by grading; and
- (3) The proposed slope of the land complies with all applicable regulations and is not unreasonably severe; and
- (4) The proposal will not unreasonably interfere with light, air, or visibility of the general public or of adjacent neighbors; and
- (5) The proposal is planned so as to prevent unreasonable damage to or interference with surrounding property; and
- (6) The proposal is planning so as to avoid unreasonable interference with the health or safety of people.
- (7) any grading resulting in a retention area that retain more than 18 inches of water must percolate within 72 hours

J112.1.3 The decision of the Assistant Director of Community

Development shall be final unless appealed in writing to the Planning Commission. The letter of appeal accompanied by an appeal fee as set by the Town Council must be received by the Assistant Director of Community Development within 10 days of said decision. The determination of the Planning Commission shall be final..

(10) A new Section J113 is hereby added to Appendix Chapter J of the Appendix of The California Building code, 2010 Edition, to read as follows:

Section J113. Clearing Permit.

J113.1 Permits Required. A person shall not clear or grub any vacant lot, or any developed lot exceeding one-half acre in size, without first obtaining a clearing permit from the Town. In the event that a grading permit has been issued with respect to the property, no clearing permit shall be required for that portion of the property covered by the grading permit.

J113.2 Findings and Decision. An application for a clearing permit shall not be approved unless the Building Official determines that the proposed clearing and grubbing will not result in significant blowing dust or erosion of topsoil.

J113.3 Exemptions. Persons shall be exempt from this Section in the event that:

(1) They are required to remove vegetation at the request of the Apple Valley Fire Protection District, San Bernardino County Flood Control District or any other appropriate governmental agency. This shall be done by mowing not ground disturbance; or

(2) The proposed grading activity is part of an existing bona fide agricultural activity; or

(3) The County Agricultural Commissioner has given written notice that the proposed grading/clearing activity is required to perform a new bona fide agricultural activity. A bona fide agricultural activity must be served by a water distribution system adequate for the proper operation of such activity.”

SECTION 5. Chapter 8.13 entitled the “California Residential Code” is hereby added to read as follows:

Chapter 8.13

CALIFORNIA RESIDENTIAL CODE

Sections 8.13.010 Adopted. The California Residential Code, 2010 Edition, prepared and published by the California Building Standards, is hereby adopted and made a part of this Chapter by reference, with the following modifications.

(1) Appendix Chapters A,B,C,D,F,I,K,L,N,P,Q, and R are deleted.

SECTION 6. Chapter 8.15 entitled “California Green Building Standards” is hereby added to read as follows:

Chapter 8.15

CALIFORNIA GREEN BUILDING STANDARDS CODE

Sections 8.15.010 Adopted. The California Green Building Standards Code, 2010 Edition, prepared and published by the California Building Standards, is hereby adopted and made part of this Chapter by reference, with the following modifications.

Chapter 4 Section 4.106.3 is hereby amended to read as follows,
All surface water retained must percolate within 72 hours, the method used to achieve this must be approved by the building official or Town engineer.

SECTION 7. Chapter 8.16 entitled “California Electrical Code” is hereby amended to read as follows:

Chapter 8.16

CALIFORNIA ELECTRICAL CODE

Sections 8.16.010 Adopted. The California Electrical Code, 2010 Edition, prepared and published by the California Building Standards, is hereby adopted and made a part of this Chapter by reference.”

SECTION 8. Chapter 8.18 entitled “California Plumbing Code” is hereby amended to read as follows:

“Chapter 8.18

CALIFORNIA PLUMBING CODE

Sections 8.18.010 Adopted. The California Plumbing Code, 2010 Edition, prepared and published by the California Building Standards, including Appendices thereto and installation standards incorporated therein, is hereby adopted and made a part of this Chapter by reference.

SECTION 9 Chapter 8.21 entitled “California Mechanical Code” is hereby amended to read as follows:

“Chapter 8.21

CALIFORNIA MECHANICAL CODE

Section 8.21.010 Adopted. The California Mechanical Code, 2010 Edition including Appendices and its standards incorporated therein, as published by the California Building Standards, is hereby adopted and made a part of this Chapter by reference with the following modifications:

SECTION 10. Chapter 8.22 entitled “Uniform Solar Energy Code: is hereby amended to read as follows:

“Chapter 8.22

UNIFORM SOLAR ENERGY CODE

Sections 8.22.010 Adopted. The Uniform Solar Energy Code, 2009 Edition prepared and published by the International Association of Plumbing and Mechanical Officials, is hereby adopted and made a part of this Chapter by reference.”

SECTION 11 Chapter 8.26 International Property maintenance Code is hereby repealed

SECTION 13. Modifications.

The Town Council of the Town of Apple Valley hereby expressly finds that these regulations and provisions, and those of the codes adopted herein, are in compliance with Sections 17958 et seq. of the Health and Safety Code of the State of California and that a copy of this Ordinance shall be forwarded to the California Building Standard Commission of the State of California by the Town Clerk of the Town of Apple Valley, and said copy will serve to satisfy the requirements of filing of findings as stated in Section 17958.7 of the Health and Safety Codes of the State of California. Each of the foregoing modifications to the uniform cods adopted by this Ordinance are reasonably necessary because of local climatic, geological or topographical conditions.

SECTION 14. Effective Date.

This Ordinance shall become effective thirty (30) days from and after date of its adoption, but not prior to January 1, 2011.

SECTION 15. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 16. Notice of Adoption.

The Town Clerk of the town of Apple Valley shall certify to the adoption of the Ordinance and cause publication to occur in the newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this 11th day of January 2011.

Attest:

Mayor

Town Clerk

Approved as to Form:

Approved as to Content:

Town Attorney

Town Manager