

## **ORDINANCE NO. 543**

### **AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING SECTION 9.36.140 "DRIVE-IN/DRIVE-THRU RESTAURANTS" BY REVISING DEVELOPMENT STANDARDS AND TO PROVIDE THE REVIEW AUTHORITY THE ABILITY TO APPROVE REDUCTIONS TO THESE STANDARDS THROUGH DOCUMENTATION AND MITIGATION**

**WHEREAS**, The General Plan of the Town of Apple Valley was adopted by the Town Council on August 11, 2009; and

**WHEREAS**, Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on April 27, 2010; and

**WHEREAS**, On May 1, 2020, the Town Council initiated a Development Code Amendment, directing staff to work with the Planning Commission to modify the development standards relating to drive-thru restaurants including clarity to development standards, drive-thru queuing and to allow for flexibility as approved by the review authority;

**WHEREAS**, Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, On November 4, 2020, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2020-003, inviting testimony from the public and adopting Planning Commission Resolution No. 2020-009 forwarding a recommendation to the Council; and

**WHEREAS**, Specific changes are proposed to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by modifying Section 9.36.140 "Drive-In/Drive-Thru Restaurants" by revising development standards and to provide the review authority the ability to approve reductions to these standards through documentation and mitigation; and

**WHEREAS**, Development Code Amendment No. 2020-003 is consistent with the Town's General Plan and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety, and general welfare of the citizens of the Town of Apple Valley; and

**WHEREAS**, The project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where

it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA; and

**WHEREAS**, On January 1, 2021, Development Code Amendment No. 2020-003 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, On January 12, 2021 the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2020-003, receiving testimony from the public and

**NOW, THEREFORE**, the Town Council of the Town of Apple Valley, State of California, does ordain as follows:

**Section 1.** Find that the changes proposed by Development Code Amendment No. 2020-003 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

**Section 2.** Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development Code Amendment No. 2020-003 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Modify Development Code Section 9.36.140 "Drive-In/Drive-Thru Restaurants" to read as follows:

"A. **Purpose.** The purpose of this Section is to ensure that drive-in, drive-thru, delivery, and take-out restaurants do not impose adverse impacts on adjacent uses or the surrounding neighborhood because of customer or employee parking demand, traffic generation, noise, light, or litter, consistent with the goals, objectives and policies of the General Plan.

B. **Applicability.** All drive-in, drive-thru, delivery and take-out restaurants are subject to approval as shown in Table 9.35.030-A, Permitted Uses, and shall comply with the development standards of the zoning district in which they are located, this Section and Chapter 9.37, *Commercial and Office Districts Design Standards*, of this Code. Deviations and reductions to these provisions may be considered by the review authority when it can be demonstrated through documentation and mitigation that the requested reduction will not result in a negative impact upon the site or surrounding land uses.

C. **Development Standards**

1. **Site Design.**

a. Drive-thru areas shall be designed to be an integral part of the main structure.

- b. Building placement shall be oriented to screen the drive-thru lane whenever possible.
  - c. Drive-thru windows are discouraged on any building elevation directly facing a public right-of-way.
  - d. Drive-thru facilities shall be provided screening and protection from sun and wind through the use of special landscape and architectural treatments such as berming and bays around the drive aisle.
  - e. Drive thru lanes shall be setback a minimum of twenty-five (25) feet from the ultimate curb face.
2. **Drive-in/Drive-thru Stacking Space.** Stacking lanes for drive-in/drive-thru customers shall be of sufficient length to hold at least eight (8) vehicles (twenty [20]-foot in length per vehicle), with four (4) located behind the order point and four (4) between the order point and pick-up window. On-site driveways may be used for stacking space provided that access to required parking spaces is not obstructed. Reduced requirements may be allowed when sufficient evidence is provided, to the satisfaction of the reviewing authority, to demonstrate that such reduction will not impair traffic safety on the site or surrounding roadways. Documentation could include data relating to traffic counts, operational efficiency and customer projections.
3. **Access and Circulation**
- a. Drive-in, drive-thru, delivery or take-out restaurant sites shall have two (2) points of ingress/egress either to a public street system or to an interior parking lot circulation system which serves a group of businesses subject to approval of the Town Engineer.
  - b. Vehicle entrances to drive-thru businesses shall be located a minimum of 150 feet, 200 feet is preferred, from the nearest intersection.
  - c. Drive-thru facilities shall be provided separate queuing and circulation for drive-thru traffic to insure access for other traffic to parking spaces or exits without waiting in drive-thru service lanes.
  - d. Parking aisles shall not terminate at the drive-thru lane exit.
  - e. Drive-thru lanes shall have a minimum width of twelve (12) feet and a twenty-five (25)-foot interior radius at curve.
  - f. Pedestrian walkways should not intersect the drive-thru lane, but when necessary, the crosswalk shall be emphasized by decorative pavement and markings.
4. **Hours of Operation.** A drive-in, drive-thru, delivery or take-out restaurant located adjacent to any residential use or district shall not open prior to 6:00 a.m. or after 10:00 p.m. The review authority may further restrict the hours of operation for such restaurants when adjacent to other uses or districts and where modified hours are necessary to mitigate potential adverse impacts related to noise, traffic or lighting.

**5. Landscaping.**

- a. Berming and landscaping shall be provided to screen the entire drive-thru area.
- b. Landscaping shall be installed and permanently maintained in compliance with Chapter 9.75, *Water Conservation/Landscaping Regulations*, of this Code.

6. **Lighting.** All on-site lighting shall comply with Chapter 9.70, *Performance Standards*, of this Code.

7. **Noise.** Drive-in, drive thru, delivery or take-out restaurants shall comply with the provisions of Chapter 9.70, *Performance Standards*, of this Code.

8. **Parking.** A parking and vehicular circulation plan encompassing adjoining street, alleys and uses shall be submitted for the review and approval of the Town Engineer prior to the approval by the review authority. In addition, all on-site parking shall comply with Chapter 9.72, *Off-Street Parking and Loading Regulations*, of this Code.

**9. Signs.**

- a. Signs guiding and directing traffic shall consist of freestanding directional signs and directional markings painted on the pavement.
- b. Menu boards shall face away the street or be screened with dense landscaping.
- c. Menu boards shall comply with the minimum building setback requirements.
- d. All on-site signs shall comply with Chapter 9.74, *Signs and Advertising Displays*, of this Code.

10. **Trash Enclosures.** Trash enclosures shall be covered and provided in accordance with the provisions contained in Section 9.35.090, *Trash Enclosures*, of this Code."

**Section 4.** Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a 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.

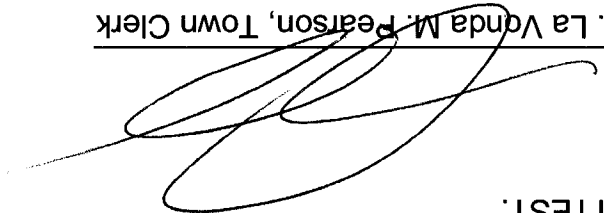
**Section 5.** Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

**Section 6.** 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.

**APPROVED** and **ADOPTED** by the Town Council and signed by the Mayor and attested to by the Town Clerk this 26th day of January, 2021.

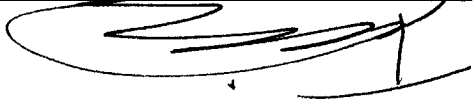
ATTEST:

Ms. La Vonda M. Pearson, Town Clerk



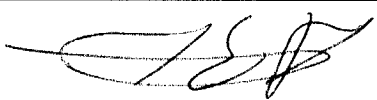
Approved as to form:

Mr. Thomas Rice, Town Attorney

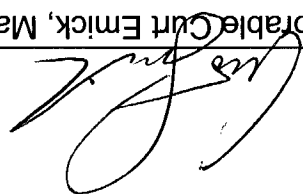


Approved as to content:

Mr. Douglas B. Robertson, Town Manager



Honorable Curt Emick, Mayor



**STATE OF CALIFORNIA**

**COUNTY OF SAN BERNARDINO**

**TOWN OF APPLE VALLEY**

I, LA VONDA M-PEARSON, TOWN CLERK of the Town of Apple Valley, California, hereby certify that the foregoing Ordinance No. 543 was duly introduced on January 26, 2021 and adopted at the Town Council adjourned meeting on January 26, 2021, by the following vote:

AYES: Council Members, Bishop, Cusack, Nassif, Mayor Pro Tem Leon, Mayor Emick.

NOES: None.

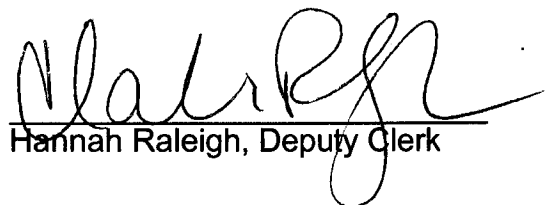
ABSENT: None.

ABSTAIN: None.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Apple Valley, California, this 28<sup>th</sup> day of January, 2021.

LA VONDA M-PEARSON, CMC  
TOWN CLERK

by:

  
Hannah Raleigh, Deputy Clerk

STATE OF CALIFORNIA

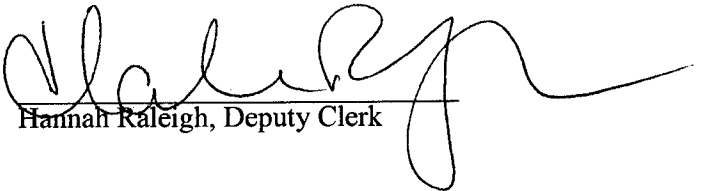
COUNTY OF SAN BERNARDINO

TOWN OF APPLE VALLEY

I, La Vonda M-Pearson, Town Clerk of the Town of Apple Valley, California, do hereby certify that the attached Ordinance No. 543 was adopted on January 26, 2021 by the Town Council of the Town of Apple Valley and has been published in a newspaper of general circulation, published and circulated in the Town in a manner permitted under Section 36933 of the Government Code.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Apple Valley, California, this 26th day of January, 2021.

LA VONDA M-PEARSON, CMC  
TOWN CLERK



Hannah Raleigh, Deputy Clerk