

ORDINANCE NO. 490

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING VARIOUS CODE SECTIONS TO ALLOW AND ESTABLISH STANDARDS FOR CARGO CONTAINERS IN THE VILLAGE COMMERCIAL (C-V) ZONING DISTRICT

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, 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, specific changes are proposed to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending 9.35.080 and Section 9.36.170; 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 October 19, 2016, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2016-005, receiving testimony from the public and adopting Planning Commission Resolution No. 2016-009 forwarding a recommendation to the Council; and

WHEREAS, on November 15, 2016, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearings on Development Code Amendment No. 2016-005, receiving testimony from the public.

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

NOW, THEREFORE, BE IT RESOLVED that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, does hereby resolve, order and determine as follows and recommends that the Town Council make the following findings and take the following actions:

Section 1. Find that the changes proposed by Development Code Amendment No. 2016-005 is 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. 2015-005 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend Section 9.35.080 by adding Subsection "E" to read as follows:

9.35.080 Outdoor Storage and Use

E. Cargo Containers. In the Village Commercial (C-V) district, cargo containers shall be permitted subject to Section 9.36.170.D.

Section 4. Amend Section 9.36.170 by adding a Subsection "D" and re-lettering the subsection to read as follows:

9.36.170 Outdoor Displays, Sales and Uses

D. Cargo Container. All properties zoned Village Commercial (C-V) within the Apple Valley Village area may use a cargo container for storage purposes subject to a Minor Development Permit and conforms to the following:

1. Cargo container shall mean for the purposes of this Code Section, a storage container that was built for intermodal freight transport, meaning these containers were used across different modes of transport – from ship to rail to truck – without unloading and reloading their cargo. This does not include any freight container that was previously attached to an axle with wheels such as a railcar or commercial tractor trailer.
2. No cargo container shall be visible from any lot frontage(s)
3. Maximum number of containers shall be limited to two (2). Each container shall not exceed forty (40) feet in length, ten (10) feet in width, and nine and one half (9.5) feet in height.
4. The use of the cargo container for storage shall be directly related to and associated with a legally established primary use on-site.
5. The container may not occupy required parking, drive aisles, fire lane or landscape area.
6. Stored material must be business related and may not include hazardous material.

7. Placement of the container shall meet the setback standards of the Village Commercial (C-V) district.
8. Architecturally the cargo container shall be limited to a single color. No signage, lettering or graphics on the container is allowed. The cargo container must remain graffiti free.

Section 5. 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 6. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 7. 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 13TH day of December, 2016.

Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

APPROVED AS TO FORM:

John Brown, Town Attorney

APPROVED AS TO CONTENT:

Frank Robinson, Town Manager