

## **ORDINANCE NO. 491**

**AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.25 "DEVIATION PERMITS", CHAPTER 9.28 "RESIDENTIAL DISTRICTS", AND CHAPTER 9.35 "COMMERCIAL DISTRICTS" AS IT PERTAINS TO SETBACK REDUCTIONS THROUGH THE APPROVAL OF A DEVIATION PERMIT WITHIN THE RANCHOS RESIDENTIAL OVERLAY 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 Chapter 9.25 "Deviation Permits", Chapter 9.28 "Residential Districts", and Chapter 9.35 "Commercial Districts" as it pertains to setback reductions through the approval of a Deviation Permit within the Ranchos Residential Overlay District; and

**WHEREAS**, on December 21, 2016, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2016-004, receiving testimony from the public and adopting Planning Commission Resolution No. 2016-008 forwarding a recommendation to the Council; and

**WHEREAS**, Development Code Amendment No. 2016-004 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 24, 2017, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearings on Development Code Amendment No. 2016-004, receiving testimony from the public.

**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. 2016-004 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. 2016-004 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Amend Section 9.25.030 "Standards" of Chapter 9.25 "Deviation Permits" of the Development Code to add subsection F and G as follows:

- "F. For an unenclosed addition to a primary residential structure, a maximum ten (10)-foot encroachment into the front yard or street side yard setback as indicated by the Ranchos Residential Overlay District, or as delineated on a Final Map, not to exceed the required setback determined by the zoning district.
- G. For new construction, or additions to existing multi-family or commercial structures, an encroachment into the front or street side yard setback as indicated by the Ranchos Residential Overlay District, or as delineated on a Final Map, not to exceed the required setback determined by the zoning district."

**Section 4.** Amend the second paragraph of Section 9.28.040 "Site Development Standards" of Chapter 9.28 "Residential Districts" as follows:

"The setbacks specified in Table 9.28.040-A shall be the setback standards, except for the Mountain Vista neighborhood, as defined in this Chapter, and for which setbacks are specified in Table 9.28.040-C, or unless a different setback is indicated by a Ranchos Residential Overlay District as designated in Chapter 9.63 of this Code or is required as delineated on all Final Maps, Parcel Maps and Records of Survey Maps recorded in San Bernardino County between March 1, 1948, and January 1, 1987, or on Composite Development Plans on file in Town offices; then these setbacks shall be the street and yard setback distances required on the property within said Final Maps, Parcel Maps, Records of Survey or Composite Development Plan. Notwithstanding any other provision of this Code, any request to modify or deviate from a building setback line designated on a recorded map or final map shall be made in accordance with the provisions of Chapter 9.24 *Variances* or Chapter 9.25 *Deviation Permits*, of this Code."

**Section 5.** Amend the second paragraph of Section 9.35.040 "Site Development Standards" of Chapter 9.35 "Commercial and Office Districts" as follows:

"The setbacks specified in Table 9.35.040-A shall be the setback Standards unless approved otherwise by a different setback is required, as delineated on all Final Maps, Parcel Maps and Records of Survey Maps recorded in San Bernardino County between March 1, 1948, and January 1, 1987, or on Composite Development Plans on file in Town offices.; then these setbacks shall be the street and yard setback distances required on the property within said Final Map, Parcel Map, Records of Survey or Composite Development Plan. Notwithstanding any other provision of this Development Code, any request to modify or deviate from a building setback line designated on a recorded map or final map shall be made in accordance with the provisions of Chapter 9.24, *Variances* or Chapter 9.25 *Deviation Permits*, of this Code."

**Section 6.** 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.

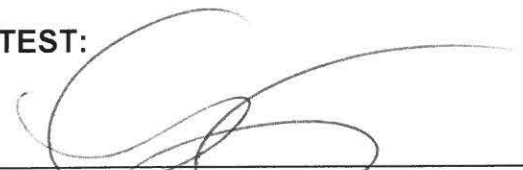
**Section 7.** Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

**Section 8.** 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.

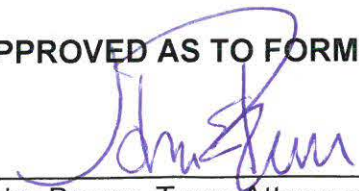
**APPROVED** and **ADOPTED** by the Town Council and signed by the Mayor and attested to by the Town Clerk this 14th day of February, 2017.

  
\_\_\_\_\_  
Scott Nassif, Mayor

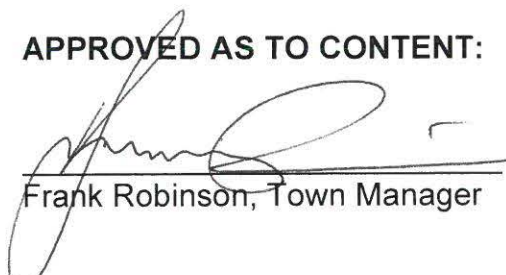
**ATTEST:**

  
\_\_\_\_\_  
La Vonda M. Pearson, Town Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
John Brown, Town Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Frank Robinson, Town Manager

**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. 491 was duly introduced on January 24, 2017 and adopted at the Town Council regular meeting on February 14, 2017 by the following vote:

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

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 15th day of February, 2017.

LA VONDA M-PEARSON, CMC  
TOWN CLERK

by:



Yvonne Rivera, Deputy

(SEAL)

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. 491 was adopted on February 14, 2017 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 15th day of February, 2017.

LA VONDA M-PEARSON, CMC  
TOWN CLERK

A handwritten signature in black ink, appearing to read 'Yvonne Rivera', is written over a horizontal line.

Yvonne Rivera, Deputy

(SEAL)