

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject Item:**

**A REQUEST SHALL BE PRESENTED TO THE TOWN COUNCIL TO AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING VARIOUS SECTIONS OF THE CODE AS THEY RELATE TO THE REGULATIONS FOR DEVELOPING GUEST QUARTERS WITHIN SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS.**

**Recommended Action:**

**Move to open the public hearing and take testimony.  
Close the public hearing. Then:**

1. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from environmental review, stating 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.
2. **Find** the facts presented within the staff report support the required Findings for approval of an amendment to the Development Code, and adopt the Findings.
3. **Find** that the proposed Town Council Ordinance is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and that it is necessary to preserve the health, safety and general welfare of the citizens of Apple Valley.
4. **Move** to waive the reading of Ordinance No. 376 in its entirety and read by title only.
5. **Introduce** Ordinance No. 376, amending Section 9.08.01 “Definitions” and Table 9.28.030-A “Permitted Uses” within Section 9.28.030 of the Code as they relate to the regulations for guest quarters developed within single-family residential districts; and,
6. **Direct** staff to file a Notice of Exemption.

**Proposed by:**           Planning Division          

**Item Number** \_\_\_\_\_

**Town Manager Approval:** \_\_\_\_\_

**Budget Item**  Yes  No

**Summary Statement:**

At the direction of the Council at its meeting of April 10, 2007, Development Code Amendment No. 2007-012 was initiated to modify the development regulations for guest quarters developed within single-family residential zoning districts.

Currently, guest houses require a Special Use Permit (SUP). Development Code Amendment No. 2007-012 would modify the description of this facility to "Guest Quarters", consistent with the definition within Chapter 9.08. This definition states that guest quarters shall not consist of more than 400 square feet of habitable space, contain more than two (2) rooms and one bathroom and there shall be no kitchen. In accordance with the definition of "Habitable Structure", bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space. In order to increase the sizes of these structures, staff has witnessed attempts to provide very large closets, hallways, storage space and bathrooms which are not in scale with the habitable area being proposed. The overall size of these structures can exceed 700 to 1,000 square feet in size, while allowing the habitable space to not exceed 400 square feet. The intent of the habitable space definition is being abused by applicants, which threatens the integrity of the guest quarters being an ancillary use to the main residential structure. These large areas not calculated within the habitable space can then be easily converted into bedrooms, kitchens and living quarters after the final inspections are made.

The intent of guest quarters as an ancillary use to the main structure is to provide temporary quarters for guests to occupy. The intent of these structures is not to permanently house guests or other occupants in a residential structure. Guest quarters should not be confused with the regulations and provisions for a second unit. Second units are allowed with a SUP in accordance with Section 9.29.120 on lots that are greater than one (1) acre in size. Second units are intended for the permanent occupation of a resident and does allow kitchen facilities. These structures are limited to no more than thirty (30) percent of the habitable area of the main residential unit and shall not be less than 950 square feet for a detached unit and not more than 1,200 square feet for an attached or detached unit.

Clearly, the lack of clarity within the regulations of guest quarters, not including the calculable habitable area, provides the opportunity for structures the size of second units to be constructed on a lot within a single-family residential zoning district that does not meet the criteria for a second unit. This Development Code Amendment eliminates the existing provision within guest quarter regulations that allows the non-habitable area to exceed 400 square feet. It regulates the total size of guest quarters to a 400 square feet maximum. The definition of guest quarters needs to be clear, unambiguous and clearly distinguishable from the definition of a second unit.

The Planning Commission adopted Planning Commission Resolution 2007-032 on December 19, 2007, which recommends that the Town Council implement the described modifications to the guest quarter development regulations.

**REQUIRED FINDINGS**

An amendment to the Development Code requires that the Town Council address two required "Findings" as listed within Development Code Section 9.06.060. As presented within past staff reports, the required Findings are listed below, along with a comment addressing each, for Commission consideration. If the Council concurs with these comments, it may be adopted. If the Council wishes modifications to the offered comments after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included in the adoption of the Code Amendment.

Required "Findings":

- A. The proposed amendment is consistent with the General Plan; and

Comment: The General Plan provides the basic framework for land development within the Town of Apple Valley, with the Development Code setting the specific standards and criteria to fulfill the General Plan's Goals and Policies. The proposed Code Amendment shall establish specific standards and criteria needed to develop guest quarters within single-family residential zoning districts. The changes proposed to the Development Code, in modifying the regulations in which guest quarters can be developed, protects the single-family residential property values and provides an improved living environment for Apple Valley residents.

- B. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: Amending the Code as proposed under Development Code Amendment No. 2007-012 will amend the Town's Development Code by modifying various sections of the Code as they relate to developing guest quarters within single-family zoning districts. These changes are minor in nature and will promote single-family uses with the ability to provide for guests in a temporary manner. Thus, the amendment proposed shall result in a change to the Code that addresses the community's living environment, while providing for the health, safety and general welfare of the citizens of the Town of Apple Valley.

**NOTICING**

Development Code Amendment No. 2007-012 was advertised as a public hearing in the Apple Valley News newspaper on February 15, 2007, as required under Development Code Section 9.13.030 "Notice of Public Hearings".

**ENVIRONMENTAL REVIEW**

Staff has determined that 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. As with the proposed amendment that shall only result in a minor change to the Code, 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.

**RECOMMENDATION**

Following receipt of public input and discussion by the Council, it is recommended that the Council move to introduce Ordinance No. \_\_\_\_\_ amending Chapters 9.28 “Residential Districts” and 9.08 “Definitions” of the Development Code as it relates to the regulations for guest quarters developed within single-family residential districts.

Attachments:

- Planning Commission Resolution No. 2007-032
- Draft Ordinance No. \_\_\_\_\_

**PLANNING COMMISSION RESOLUTION No. 2007-032**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING VARIOUS SECTIONS OF THE CODE AS THEY RELATE TO THE REGULATIONS FOR DEVELOPING GUEST QUARTERS WITHIN SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS**

**WHEREAS**, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; 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 various sections of the Code as they relate to the regulations for guest quarters developed within single-family residential districts; and

**WHEREAS**, on November 23, 2007, Development Code Amendment No. 2007-012 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined 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 may have a significant effect on the environment, the activity is EXEMPT from further CEQA review; and

**WHEREAS**, on December 19, 2007, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2007-012, receiving testimony from the public; and

**WHEREAS**, Development Code Amendment No. 2007-012 is consistent with 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.

**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. 2007-012 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. 2007-012 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Amend “Guest Quarters” within Chapter 9.08 “Definitions” to read as follows:

**Guest Quarters** - Any structure, whether attached to or detached from the main residence on a residential lot, or a lot used for residential purposes, containing living quarters for the use by temporary guests of the residents of the main residential structure on the same premises. No such guest quarters shall consist of more than four-hundred (400) square feet, contain more than two (2) rooms and one bathroom and there shall be no kitchen or cooking facilities, nor shall such quarters be rented or otherwise used as a dwelling unit.

**Section 4.** Amend paragraph 6. of subsection G. “Accessory Uses and Structures” of Table 9.28.030-A “Permitted Uses” within Section 9.28.030 “Permitted Uses” of Chapter 9.28 “Residential Districts” to read as follows:

<i>G. Accessory Uses and Structures</i>								
TYPE OF USE	R-VLD	R-A	R-LD	R-E	R-EQ	R-SF	R-M	PRD
6. Second dwelling units and guest quarters	SUP	SUP	SUP	SUP	SUP	SUP	-	SUP

\_\_\_\_\_  
 David Hernandez, Chairman

ATTEST:

I, Patty Hevle, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing Planning Commission Resolution No. 2007-032 was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 19<sup>th</sup> day of December, 2007, by the following vote, to-wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Patty Hevle, Planning Commission Secretary

**ORDINANCE NO. 376**

**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 CHAPTERS 9.08 “DEFINITIONS” AND 9.28 “RESIDENTIAL DISTRICTS” OF THE DEVELOPMENT CODE AS IT RELATES TO THE REGULATIONS FOR DEVELOPING GUEST QUARTERS WITHIN SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS**

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

**Section 1. Recitals.**

(i) Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

(ii) 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

(iii) Specific changes to Title 9 “Development Code” of the Town of Apple Valley Municipal Code include amending Chapters 9.08 “Definitions” and 9.28 “Residential Districts” of the Development Code as it relates to the regulations for developing guest quarters within single-family residential zoning districts.

(iv) On February 15, 2008, Development Code Amendment No. 2007-012 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

(v) 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

(vi) On December 19, 2007 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2007-012, receiving testimony from the public and adopted Planning Commission Resolution No. 2007-032 recommending adoption of this Ordinance; and

(vii) Development Code Amendment No. 2007-012 is consistent with 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.

**Section 2. Findings.**

(i) Find that the changes proposed by Development Code Amendment No. 2007-012 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

(ii) Find that, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from further environmental review. Section 15061(b)(3), 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

**Section 3.** Amend “Guest Quarters” within Chapter 9.08 “Definitions” to read as follows:

**Guest Quarters** - Any structure, whether attached to or detached from the main residence on a residential lot, or a lot used for residential purposes, containing living quarters for the use by temporary guests of the residents of the main residential structure on the same premises. No such guest quarters shall consist of more than four-hundred (400) square feet, contain more than two (2) rooms and one bathroom and there shall be no kitchen or cooking facilities, nor shall such quarters be rented or otherwise used as a dwelling unit.

**Section 4.** Amend paragraph 6. of subsection G. “Accessory Uses and Structures” of Table 9.28.030-A “Permitted Uses” within Section 9.28.030 “Permitted Uses” of Chapter 9.28 “Residential Districts” to read as follows:

<i>G. Accessory Uses and Structures</i>								
TYPE OF USE	R-VLD	R-A	R-LD	R-E	R-EQ	R-SF	R-M	PRD
6. Second dwelling units and guest quarters	SUP	SUP	SUP	SUP	SUP	SUP	-	SUP

**Section 5. Invalidation.** The amendment by this Ordinance of Title 9 “Development Code” of the Town of Apple Valley Municipal Code as previously in effect, or of any other prior enactment, shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to such Title or other enactment while the same was in effect.

**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.

Adopted by the Town Council and signed by the Mayor and attested by the Town Clerk this \_\_\_\_ day of March, 2008.

\_\_\_\_\_  
Honorable Timothy Jasper, Mayor

ATTEST:

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La Vonda M-Pearson, Town Clerk

Approved as to form:

Approved as to content:

\_\_\_\_\_  
Mr. Neal Singer, Town Attorney

\_\_\_\_\_  
Mr. James L. Cox, Town Manager