



## TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council      **Date:** October 28, 2014

**From:** Lori Lamson      **Item No:** 11  
Assistant Town Manager

**Subject:** ADOPT ORDINANCE NO. 465 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY PERTAINING TO ALLOWING LIGHT INDUSTRIAL USES IN VACANT COMMERCIAL BUILDINGS GREATER THAN 40,000 SQUARE FEET IN GENERAL COMMERCIAL (C-G) ZONE

**T.M. Approval:** \_\_\_\_\_ **Budgeted Item:**  Yes  No  N/A

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### RECOMMENDED ACTION:

Adopt Ordinance No. 465.

### SUMMARY:

At its September 23, 2014 meeting, the Town Council reviewed and introduced Ordinance No. 465, revising Title 9 “Development Code” of the Town of Apple Valley Municipal Code, by amending Chapters 9.23 and 9.35 as it relates to allowing light industrial uses in vacant commercial buildings greater than 40,000 square feet in the General Commercial (C-G) Zone.

### FISCAL IMPACT:

Not Applicable

### ATTACHMENT:

Ordinance No. 465

**ORDINANCE NO. 465**

**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 9.23 and 9.35 AS IT RELATES TO ALLOWING LIGHT INDUSTRIAL USES IN VACANT COMMERCIAL BUILDINGS GREATER THAN 40,000 SQUARE FEET IN THE GENERAL COMMERCIAL (C-G) ZONE.**

**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 to Chapter 9.23 “Temporary Use Permit” of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to the regulations to allow light industrial uses in vacant commercial buildings within the General Commercial (C-G) zone; and

**WHEREAS**, Specific changes to Table 9.35.030-A “Permitted Uses”, of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to “Manufacturing/Production/Wholesale” uses in the C-G zone ; and

**WHEREAS**, Development Code Amendment No. 2014-003 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 September 12, 2014, Development Code Amendment No. 2014-003 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, On August 20, 2014, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2014-003 receiving testimony from the public and adopting Planning Commission Resolution No. 2013-012 forwarding a recommendation to the Council; and

**WHEREAS**, On September 23, 2014, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearings on Development Code Amendment No. 2014-003, 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. 2014-003 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. 2014-003 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Amend Section 9.23.010 "Purpose" of the Development Code to read as follows:

**9.23.010 Purpose**

This Chapter is intended to establish regulations and procedures for the review of temporary accessory uses and for temporary uses related to current and ongoing construction activities that are not otherwise permitted or regulated in this Development Code. In addition, this chapter is also intended to establish regulations and procedures for the review of temporary uses that are listed as such in the use tables of the Development Code. The review of these temporary uses is necessary in order to minimize any adverse effects on surrounding properties and infrastructure or on the public health, safety and welfare.

**Section 4.** Amend Section 9.23.020 "Authority" of the Development Code to read as follows:

### **9.23.020 Authority**

**A. Review Authority.** The Director is authorized to approve, conditionally approve, modify, or deny requests for temporary uses that pertain to current and ongoing construction activities. The Director may establish conditions and limitations necessary to minimize detrimental effects on surrounding property and/or the general public. The Director may refer applications for a Temporary Use Permit to the Commission. The Planning Commission shall review temporary uses listed in the General Commercial (C-G) use table of the Development Code. The Planning Commission can approve, conditionally approve, modify or deny requests for these temporary use permits.

**Section 5.** Amend Section 9.23.040 “Application” of the Development Code to read as follows:

### **9.23.040 Application**

A Temporary Use Permit may be approved, conditionally approved or denied by the Director. The Director may request a site plan for the area of the proposed use, as well as any other information deemed necessary to make the required findings. Temporary Use Permits for light industrial uses within the General Commercial (C-G) zone shall require Planning Commission approval.

**Section 6.** Amend paragraph “1” of Section 9.23.030 of the Development Code to read as follows:

### **9.23.030 Permitted Temporary Uses**

I. Temporary Light Industrial Use in vacant commercial buildings. Clean industrial uses including light manufacturing and distribution shall be limited to vacant commercial buildings larger than 40,000 square feet, where the business is conducted completely within an enclosed area of the building. The uses are subject to the Development Standards identified in Section 9.35.040 consistent with the “General Commercial C-G” uses. These uses are permitted for a maximum time of ten (10) years with the ability to obtain three (3) one (1) year extensions.

**Section 7.** Amend paragraph “1” of subsection “A” “Authority” of Section 9.23.060 “Conditions of Approval” to read as follows:

### **9.23.060 Conditions of Approval**

**A. Authority.** In approving an application for a Temporary Use Permit, the Director or Planning Commission may impose conditions deemed necessary to ensure that the permit will be in accordance with the findings

required by Section 9.23.050 above. These conditions may involve any pertinent factors affecting the operation of such temporary event or use, and may include, but shall not be limited to:

1. For uses related to construction activities, a provision shall be included for a fixed period not to exceed one (1) year for a temporary use, three (3) one (1) year extensions may be granted by the Director. For light industrial uses within the General Commercial zone, the Temporary Use Permit (TUP) shall not exceed ten (10) years and three (3) one (1) year extensions may be granted by the Director;

**Section 8.** Add Section 9.23.065 “Industrial Uses” to read as the following:

**Section 9.23.065 – Industrial Uses**

Industrial uses permitted in commercial zoning shall be limited to the types of clean and light industrial uses identified for Planned Industrial (I-P) zones in Section 9.45.030 – A and development standards in Section 9.35.040 General Commercial (C-G). All industrial uses shall be conducted within an enclosed building that is greater than 40,000 square feet in size.

**Section 9.** Amend subsection “F” “Manufacturing/Production/Wholesale Uses” of Table 9.35.030-A “Permitted Uses”, of the Code and add footnote (6) to Table 9.35.030-A to read as follows and the use shall be conducted solely within the building and outside storage shall not be permitted:

**Table 9.35.030-A Permitted Uses**

TYPE OF USE <sup>(1)</sup>	DISTRICT <sup>(1)</sup>					
	O-P	C-G	C-S	C-R	C-V	M-U
<b>F. Manufacturing/Production/Wholesale Uses<sup>(4)</sup></b>						
1. All uses in Table 9.45.030-A (Sections A-G) where conducted within a completely enclosed building, except for accessory outdoor storage <sup>(6)</sup>		TUP	P			

<sup>(6)</sup> Only includes existing vacant buildings greater than 40,000 square feet in floor area and would be subject to the TUP regulations identified in Chapter 9.23 “Temporary Use Permits”.

**Section 10.** Amend the first paragraph of Section 9.23.050 “Required Findings” to read as the following:

**9.23.050 Required Findings**

The Director or the Planning Commission may approve, modify or conditionally approve a Temporary Use Permit application only when the

following findings are met:

**Section 11.** Add finding E. to Section 9.23.050 "Required Findings" to read as the following:

**E.** The location of the Temporary Use is compatible with the surrounding uses and there are no negative impacts to the surrounding area.

**Section 12.** 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 13.** Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

**Section 14.** 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 28th day of October, 2014.

\_\_\_\_\_  
Art Bishop, Mayor

**ATTEST:**

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La Vonda M. Pearson, Town Clerk

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

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John Brown, Town Attorney

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Frank Robinson, Town Manager