



# TOWN OF APPLE VALLEY

## TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council      **Date:** October 27, 2015  
**From:** Lori Lamson, Assistant Town Manager      **Item No:** 7  
**Subject:** ADOPT ORDINANCE NO. 476 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ADOPTING DEVELOPMENT CODE AMENDMENT NO. 2015-004 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, AS IT PERTAINS TO REGULATIONS FOR FENCING VACANT LAND AND VACANT DEVELOPED PARCELS

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

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### RECOMMENDED ACTION:

That the Town Council adopt Ordinance No. 476.

### SUMMARY:

At its September 22, 2015 meeting, the Town Council reviewed, amended and introduced Ordinance No. 476, which amends the Development Code Sections 9.31.030, 9.31.050, 9.37.070, 9.47.070 and 9.57.060 as it pertains to regulations for fencing vacant land and vacant developed parcels. As part of the requirements to adopt any new Ordinance, Ordinance No. 476 has been scheduled for adoption at the October 27, 2015 Town Council meeting.

### FISCAL IMPACT:

Not Applicable.

### ATTACHMENTS:

Ordinance No. 476

**ORDINANCE NO. 476**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ADOPTING DEVELOPMENT CODE AMENDMENT NO. 2015-004 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, AS IT PERTAINS TO REGULATIONS FOR FENCING VACANT LAND AND VACANT DEVELOPED PARCELS**

**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 comprehensively amending Sections 9.31.030, 9.31.050, 9.37.070, 9.47.070 and 9.57.060 to include provisions related to fencing of vacant land and vacant developed parcels; and

**WHEREAS**, on July 1, 2015 and August 19, 2015 the Planning Commission held a duly noticed and advertised public hearing on Development Code Amendment No. 2015-004, receiving testimony from the public, and adopted Planning Commission Resolution No. 2015-007; and

**WHEREAS**, on September 11, 2015, Development Code Amendment No. 2015-004 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, 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. 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**, Development Code Amendment No. 2015-004 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. 2015-004 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

**Section 2.** 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.

**Section 3.** Amend Section 9.31.030 "Single Family Architectural Design Standards" of Chapter 9.31 "Residential Design Standards" of Title 9 "Development Code" of the Municipal Code, by adding subsection E. to read as follows:

***E. Fencing of Vacant Property***

Fencing of vacant residentially zoned property is prohibited. Exceptions to this include the following:

1. On vacant property, a fence is needed to fulfill required environmental mitigation or security requirements imposed by the Town, State and/or Federal Government. In such cases, the fence height, location and materials shall be subject to the review and approval of the Community Development Director. Organic types of barriers (i.e. boulders, logs placed horizontally, incremental placement of wood posts vertically to block vehicular movement), should be used when possible, rather than traditional fencing. If fencing is used it should be wrought iron (or equivalent). All fencing must be maintained or replaced due to dilapidation or unsightliness in accordance with Section 6.30.030 F(15) of the Town's Municipal Code.
2. On vacant or developed property, it can be demonstrated for review and approval by the Director that a continued security problem exists which exceeds those same problems incurred by similar properties in the vicinity.

3. On vacant property zoned single-family residential adjacent to a developed single-family residence of the same ownership. The fencing must be decorative fencing using wrought iron or similar, masonry wall or a combination of masonry and wrought iron, vinyl or wood fencing as reviewed and approved by the Director.

**Section 4.** Amend Section 9.31.050 "Multi-Family Architectural Design Standards" of Chapter 9.31 "Residential Design Standards" of Title 9 "Development Code" of the Municipal Code, by adding subsection N. to read as follows:

***N. Fencing of Vacant Property***

Fencing of vacant residentially zoned property is prohibited. Exceptions to this include the following:

1. On vacant property, a fence is needed to fulfill required environmental mitigation or security requirements imposed by the Town, State and/or Federal Government. In such cases, the fence height, location and materials shall be subject to the review and approval of the Director. Organic types of barriers (i.e. boulders, logs placed horizontally, incremental placement of wood posts vertically to block vehicular movement), should be used when possible, rather than traditional fencing. If fencing is used it should be wrought iron (or equivalent). All fencing must be maintained or replaced due to dilapidation or unsightliness in accordance with Section 6.30.030 F(15) of the Town's Municipal Code.
2. On vacant or developed property, it can be demonstrated for review and approval by the Director that a continued security problem exists which exceeds those same problems incurred by similar properties in the vicinity.

**Section 5.** Amend Section 9.37.070 "Walls and Fences" of Chapter 9.37 "Commercial and Office Districts Design Standards" of Title 9 "Development Code" of the Municipal Code, by adding subsection C. to read as follows:

***C. Fencing of Vacant Property***

Fencing of vacant commercially zoned property is prohibited. Exceptions to this include the following:

1. On vacant property, a fence is needed to fulfill required environmental mitigation or security requirements imposed by the Town, State and/or Federal Government. In such cases, the fence height, location and materials shall be subject to the review and approval of the Director. Organic types of barriers (i.e. boulders, logs placed horizontally,

incremental placement of wood posts vertically to block vehicular movement), should be used when possible, rather than traditional fencing. If fencing is used it should be wrought iron (or equivalent). All fencing must be maintained or replaced due to dilapidation or unsightliness in accordance with Section 6.30.030 F(15) of the Town's Municipal Code.

2. On vacant or developed property, it can be demonstrated for review and approval by the Director that a continued security problem exists which exceeds those same problems incurred by similar properties in the vicinity.

**Section 6.** Amend Section 9.47.070 "Walls and Fences" of Chapter 9.47 "Industrial Design Standards" of Title 9 "Development Code" of the Municipal Code, by adding subsection C. to read as follows:

***C. Fencing of Vacant Property***

Fencing of vacant industrially zoned property is prohibited. Exceptions to this include the following:

1. On vacant property, a fence is needed to fulfill required environmental mitigation or security requirements imposed by the Town, State and/or Federal Government. In such cases, the fence height, location and materials shall be subject to the review and approval of the Director. Organic types of barriers (i.e. boulders, logs placed horizontally, incremental placement of wood posts vertically to block vehicular movement), should be used when possible, rather than traditional fencing. If fencing is used it should be wrought iron (or equivalent) or vinyl/plastic coated chain link. Wind protection material or slats (plastic, metal or redwood) shall not be used, unless used at a construction site. All fencing must be maintained or replaced due to dilapidation or unsightliness in accordance with Section 6.30.030 F(15) of the Town's Municipal Code.
2. On vacant or developed property, it can be demonstrated for review and approval by the Director that a continued security problem exists which exceeds those same problems incurred by similar properties in the vicinity.

**Section 7.** Amend subsection B. "Fencing" of Section 9.57.060 "Design Standards" of Chapter 9.57 "Public Facilities" of Title 9 "Development Code" of the Municipal Code, to add the following to the existing subsection:

## ***B. Fencing***

...Fencing of vacant residentially zoned property is prohibited. Exceptions to this include the following:

1. On vacant property, a fence is needed to fulfill required environmental mitigation or security requirements imposed by the Town, State and/or Federal Government. In such cases, the fence height, location and materials shall be subject to the review and approval of the Director. Organic types of barriers (i.e. boulders, logs placed horizontally, incremental placement of wood posts vertically to block vehicular movement), should be used when possible, rather than traditional fencing. If fencing is used it should be wrought iron (or equivalent). All fencing must be maintained or replaced due to dilapidation or unsightliness in accordance with Section 6.30.030 F(15) of the Town's Municipal Code.
2. On vacant or developed property, it can be demonstrated for review and approval by the Director that a continued security problem exists which exceeds those same problems incurred by similar properties in the vicinity.

**Section 8.** Amend subsection C. "Design Standards" of Section 9.28.120 "Fences, Walls and Hedges" of Chapter 9.28 "Residential Districts" of Title 9 "Development Code" of the Municipal Code, to add the following to the to the end of the existing subsection:

### ***C. Design Standards***

...Vacant Single-Family zoned parcels are subject to the fencing regulations in 9.31.030 E.

**Section 9.** 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 10.** Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

**Section 11.** 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 27th day of October, 2015.

**ATTEST:**

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Larry Cusack, Mayor

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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