



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** November 15, 2016

From: Carol Miller, Principal Planner **Item No:** 15
Planning Department

Subject: AN AMENDMENT TO TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING CODE SECTIONS 9.35 AND 9.36 TO ALLOW AND ESTABLISH STANDARDS FOR CARGO CONTAINERS IN THE VILLAGE COMMERCIAL (C-V) ZONING DISTRICT

T.M. Approval: _____

Budgeted Item: Yes No N/A

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 because 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. 490 in its entirety and read by title only.

5. **Introduce** Ordinance No. 490, revising Title 9 "Development Code" of the Town of Apple Valley Municipal Code by modifying Chapters 9.35 and 9.36 as it relates to the use of cargo containers in the Village Commercial (C-V) zoning districts.
6. Direct staff to file a Notice of Exemption.

SUMMARY:

On August 11, 2015, the Town Council initiated a Development Code Amendment regarding the potential use of cargo containers within the Village area. On October 19, 2016 the Planning Commission adopted Planning Commission Resolution No. 2016-009 recommending an amendment to the Development Code as it pertains to this issue.

ANALYSIS:

In review of the overall Village area and the desire to allow cargo containers in the Village area, the determination was that potential storage problems seem to exist for only those narrow Village Commercial (C-V) lots located adjacent to or near Highway 18, between Navajo and Central Roads. Due to the fact that many of these establishments have narrow lots and structures, the need for additional space for adequate storage is essential, but can be problematic. The Planning Commission recommendation to allow the use of metal cargo containers subject to specific requirements could be beneficial to businesses within the Village Commercial (C-V) zoning district. The Planning Commission recommends the following amended language as identified by strike-through text for deletions and underlined text for additions.

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.

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.

FINDINGS:

Prior to the approval of any Amendment to the Development Code, the Council, based upon the advice of the Planning Commission, must make specific "Findings" as listed within the Code. Code Section 9.06.060 "Required Findings" of Chapter 9.06 Amendments to Zoning Provisions" specifies that two (2) Findings must be made in a positive manner to approve an Amendment. These Findings, along with a comment to address each, are presented below.

- 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 allows the use of a cargo container for properties within the Village Commercial (C-V) zoning district for the purposes of providing additional opportunities for storage while maintaining the integrity of the Village Commercial zoning. The General Plan recognizes the development challenges the Village area faces. The change proposed to the Development Code is consistent with the General Plan and provides a solution to a problem, while still protecting the property values and aesthetics of the Village.

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

Comment: The proposed Development Code Amendment will amend the Development Code requirements to allow the use of a cargo container for those properties within the Village Commercial (C-V) zoning district. Based on the proposed standards, the potential impacts due to aesthetics, impacts to parking and landscaping are minimized. Therefore, the Amendment will not be detrimental to the health, safety or general welfare of the citizens or visitors of the Town of Apple Valley.

NOTICING:

Development Code Amendment No. 2016-005 was advertised as a public hearing in the Apple Valley News newspaper on October 28, 2016.

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. 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.

FISCAL IMPACT:

Not Applicable.

ATTACHMENTS:

1. Draft Ordinance No. 490
2. Planning Commission Staff Report, including Planning Commission Resolution No. 2016-009

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.

Barb Stanton, Mayor

ATTEST:

La Vonda M. Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

John Brown, Town Attorney

Frank Robinson, Town Manager



Get a Slice of the Apple.

TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

- AGENDA DATE:** October 19, 2016
- CASE NUMBER:** Development Code Amendment No. 2016-005
- APPLICANT:** Town of Apple Valley
- PROPOSAL:** An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Chapters 9.35 and 9.36 to add regulations related to allowing cargo containers in the Village area.
- LOCATION:** Village Commercial Zoning District
- ENVIRONMENTAL DETERMINATION:** 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.
- PROJECT PLANNER:** Ms. Carol Miller, Principal Planner
- RECOMMENDATION:** Adopt Planning Commission Resolution No. 2016-009

BACKGROUND

On September 27, 2016, the Town Council initiated an amendment to the Development Code to consider modifications to the Development Code regulations for cargo containers in the commercially zoned properties within the Village. Staff was directed by the Council, to work with the Planning Commission to consider modifications to the Development Code that would allow cargo containers on commercially zoned property within the Village area. Although the Council supports the use of cargo containers in the Village area, they expressed some concern with allowing one geographic area to use cargo containers and not allowing other commercial areas the same privilege.

DISCUSSION

The current regulations of the Development Code prohibit metal buildings or material to be used on any structure within the Town's commercial districts. In review of the overall Village area, and

the desire to allow cargo containers in the Village area, staff determined that potential storage problems seem to exist for only those narrow Village Commercial (C-V) lots located adjacent to or near Highway 18, between Navajo and Central Roads. Due to the fact that many of these establishments have narrow lots and structures, the need for additional space for adequate storage is essential, but can be problematic. To add additional square-footage to these older structures can trigger the potential for compliance with new Building Codes or ADA requirements. Although this argument could be said for the commercial properties in the Knolls area, these properties are built out with no possible way to place a container on the lot without impacting parking, aisle ways or landscaping. In regards to other commercial zoning within the Village, Staff did not feel that expanding the provision for cargo containers to other commercially zoned properties was justified given that the lots are generally larger, and as such, the existing development has the potential to expand to address storage needs. Based on the above analysis, a change to the Code to allow for the use of metal cargo containers subject to specific requirements could be beneficial to businesses within the Commercial Village (C-V) zoning district. Therefore, staff is recommending the provisions apply only to the Village Commercial (C-V) zoned lots.

Staff is offering for the Commission's consideration the following amended language as identified by underlined text for additions and strike-through text for deletions to address renumbering.

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.

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. No cargo container shall be visible from any lot frontage(s)
2. Maximum number of containers shall be limited to two (2). Each container not to exceed forty (40) feet in length and ten (10) feet in width.
3. The use of the cargo container for storage shall be directly related to and associated with a legally established primary use on-site.
4. The container may not occupy required parking, drive aisles, fire lane or landscape area.
5. Stored material must be business related and may not include hazardous material.
6. 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.

~~*E. Outdoor Recreational Facilities.*~~ Outdoor recreational facilities shall conform to all property development standards of the zoning district in which they are located and the following:

- 1. Hours of Operation.* The hours of operation may be restricted to ensure compatibility with adjacent uses and the surrounding neighborhoods.
- 2. Landscaping.* Landscaping shall be installed and permanently maintained in compliance with Chapter 9.75, *Water Conservation/Landscaping Regulations.*, of this Code. Additional or enhanced landscaping may be required to reduce the impact of outdoor recreational areas on surrounding uses.
- 3. Lighting.* All outdoor recreational areas shall be well lit with sufficient lighting to illuminate all areas. However, lighting shall not exceed 0.5 foot-candlepower at the property lines and shall comply with the provisions of Chapter 9.70, *Performance Standards*, of this Code.

4. **Parking.** Outdoor recreational facilities shall provide off-street parking facilities as designated in Chapter 9.72, *Off-Street Parking and Loading Regulations*, of this Code, for each type of use to be conducted concurrently on the site.
5. **Public Address Systems.** Public address systems shall not be used after 9:00 p.m. Sunday through Thursday and 10:00 p.m. on Friday and Saturday. Noise levels from the public address system shall not exceed sixty-five (65) dba at the property lines.
6. **Screening.** Screening and buffering shall be in accordance with Chapter 9.37, *Commercial and Office Districts Design Standards*, of this Code. A solid decorative masonry wall or fence, or other material found appropriate by the Planning Commission, shall be installed on property lines adjacent to residential uses or districts.

E-F As used herein, the following shall define antiques, collectibles and second-hand merchandise:

1. An antique is defined as any handmade or manufactured product, such as an automobile, a work of art, piece of furniture, jewelry, clothing or decorative object, produced during or prior to World War II or which is indicative of a specific period of craftsmanship and design.
2. A collectible is any mass-produced product, no longer manufactured and of limited availability, such as coins, books, stamps, clothing, bric-a-brac, curios or similar objects, regardless of its age, which represents an earlier period, style or fad, and which, when originally produced, carried an inexpensive retail price but has taken on an intrinsic value greater than that original value and which continues to appreciate with time.
3. Second-hand merchandise pertains to any products, goods or items offered or displayed for sale or exchange to the general public which have been previously used by the seller or other(s) but which cannot be classified as antiques or collectibles.

F-G An Outdoor Display/Sales Permit shall not be approved for any applicant (whether individual, company or corporation), or at a location where the property owner, a tenant or lessee, has either of the following:

1. Any combination of two or more outstanding citations of the Town of Apple Valley Municipal Code, or adjudicated citations found in favor of the Town of Apple Valley by a court of competent jurisdiction, issued within the twenty-four (24) months preceding the proposed initiation date of the Outdoor Display/Sale listed upon the Outdoor Display/Sales Permit application and directly or indirectly related to, or similar to, any property, event, activity or use for which the Outdoor Display/Sales Permit application is proposed; or
2. The individual, company or corporation listed as the applicant upon the Outdoor Display/Sales Permit application has, or where the property owner, a tenant or lessee, of the property listed upon the Outdoor Display/Sales Permit application as the intended site of the outdoor display and/or sale, has a Municipal Code violation(s) being processed by the Town of Apple Valley or pending before a Court of competent jurisdiction and directly or indirectly related to, or similar to, any property, event, activity or use for which the Outdoor Display/Sales Permit application is proposed.

FINDINGS:

An Amendment to the Development Code requires that the Planning Commission address two (2) required "Findings", as listed within Development Code Section 9.06.060. For Commission consideration, the required Findings are listed below, along with a comment addressing each. If the Commission concurs with these comments, it may be adopt and forward its recommendation to the Council for consideration of the Development Code Amendment. If the Commission wishes to modify the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included into the information forwarded to the Council for consideration.

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 allows the use of a cargo container for properties within the Village Commercial zoning district for the purposes of providing additional opportunities for storage while maintaining the integrity of the Village Commercial zoning. The General Plan recognizes the development challenges the Village area faces. The change proposed to the Development Code is consistent with the General Plan and provides a solution to a problem, while still protecting the property values and aesthetics of the Village.

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

Comment: The proposed Development Code Amendment will amend the Development Code requirements to allow the use of a cargo container for those properties within the Village Commercial zoning district. Based on the proposed standards, the potential impacts due to aesthetics, impacts to parking and landscaping are minimized. Therefore, the Amendment will not be detrimental to the health, safety or general welfare of the citizens or visitors of the Town of Apple Valley.

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. 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 Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2016-009, forwarding a recommendation that the Town Council amend Title 9 "Development Code" of the Town of Apple Valley Municipal Code as outlined within the staff report.

Prepared by:

Reviewed By:

Carol Miller
Principal Planner

Lori Lamson
Assistant Town Manager

ATTACHMENTS:

1. Planning Commission Resolution No. 2016-009

PLANNING COMMISSION RESOLUTION NO. 2016-009

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2016-005 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING SECTIONS 9.35.080 AND 9.36.170 TO ALLOW CARGO CONTAINERS WITHIN THE VILLAGE COMMERCIAL LAND USE 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 to Chapter 9.35.080 of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to adding a provision which references Chapter 9.36.170; and

WHEREAS, Specific changes to Table 9.36.170 “Outdoor Displays, Sales and Uses”, of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to adding provisions for “cargo containers”; and

WHEREAS, On October 7, 2016, Development Code Amendment No. 2016-005 was duly noticed in the Apple valley News, a newspaper of general circulation within 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 October 19, 2016, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2016-005, receiving testimony from the public and adopted Planning Commission Resolution No. 2016-009 recommending adoption of this Ordinance; and

WHEREAS, Development Code Amendment No. 2016-005 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.

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, finds and determines 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. 2014-001 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend Chapter 9.35.080 of the Code 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 of the Code 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. No cargo container shall be visible from any lot frontage(s)
2. Maximum number of containers shall be limited to two (2). Each container not to exceed forty (40) feet in length and ten (10) feet in width.
3. The use of the cargo container storage shall be directly related to and associated with a legally established primary use on-site.
4. The container may not occupy required parking, drive aisles, fire lane or landscape area.
5. Stored material must be business related and may not include hazardous material.
6. 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.

D-E Outdoor Recreational Facilities. Outdoor recreational facilities shall conform to all property development standards of the zoning district in which they are located and the following:

- 1. Hours of Operation.** The hours of operation may be restricted to ensure compatibility with adjacent uses and the surrounding neighborhoods.
- 2. Landscaping.** Landscaping shall be installed and permanently maintained in compliance with Chapter 9.75, *Water Conservation/Landscaping Regulations.*, of this Code. Additional or enhanced landscaping may be required to reduce the impact of outdoor recreational areas on surrounding uses.
- 3. Lighting.** All outdoor recreational areas shall be well lit with sufficient lighting to illuminate all areas. However, lighting shall not exceed 0.5 foot-candlepower at the property lines and shall comply with the provisions of Chapter 9.70, *Performance Standards*, of this Code.
- 4. Parking.** Outdoor recreational facilities shall provide off-street parking facilities as designated in Chapter 9.72, *Off-Street Parking and Loading Regulations*, of this Code, for each type of use to be conducted concurrently on the site.
- 5. Public Address Systems.** Public address systems shall not be used after 9:00 p.m. Sunday through Thursday and 10:00 p.m. on Friday and Saturday. Noise levels from the public address system shall not exceed sixty-five (65) dba at the property lines.
- 7. Screening.** Screening and buffering shall be in accordance with Chapter 9.37, *Commercial and Office Districts Design Standards*, of this Code. A solid decorative masonry wall or

fence, or other material found appropriate by the Planning Commission, shall be installed on property lines adjacent to residential uses or districts.

E-F As used herein, the following shall define antiques, collectibles and second-hand merchandise:

- 1.** An antique is defined as any handmade or manufactured product, such as an automobile, a work of art, piece of furniture, jewelry, clothing or decorative object, produced during or prior to World War II or which is indicative of a specific period of craftsmanship and design.
- 2.** A collectible is any mass-produced product, no longer manufactured and of limited availability, such as coins, books, stamps, clothing, bric-a-brac, curios or similar objects, regardless of its age, which represents an earlier period, style or fad, and which, when originally produced, carried an inexpensive retail price but has taken on an intrinsic value greater than that original value and which continues to appreciate with time.
- 3.** Second-hand merchandise pertains to any products, goods or items offered or displayed for sale or exchange to the general public which have been previously used by the seller or other(s) but which cannot be classified as antiques or collectibles.

F-G An Outdoor Display/Sales Permit shall not be approved for any applicant (whether individual, company or corporation), or at a location where the property owner, a tenant or lessee, has either of the following:

- 1.** Any combination of two or more outstanding citations of the Town of Apple Valley Municipal Code, or adjudicated citations found in favor of the Town of Apple Valley by a court of competent jurisdiction, issued within the twenty-four (24) months preceding the proposed initiation date of the Outdoor Display/Sale listed upon the Outdoor Display/Sales Permit application and directly or indirectly related to, or similar to, any property, event, activity or use for which the Outdoor Display/Sales Permit application is proposed; or
- 2.** The individual, company or corporation listed as the applicant upon the Outdoor Display/Sales Permit application has, or where the property owner, a tenant or lessee, of the property listed upon the Outdoor Display/Sales Permit application as the intended site of the outdoor display and/or sale, has a Municipal Code violation(s) being processed by the Town of Apple Valley or pending before a Court of competent jurisdiction and directly or indirectly related to, or similar to, any property, event, activity or use for which the Outdoor Display/Sales Permit application is proposed.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 19th day of October 2016.

Chairman Doug Qualls

ATTEST:

I, Yvonne Rivera, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 19th day of October, 2016 by the following vote, to-wit:

AYES:
NOES:

ABSENT:
ABSTAIN:

Ms. Yvonne Rivera, Planning Commission Secretary