



Town Council Agenda Report

Date: December 10, 2019 Item No. 13

To: Honorable Mayor and Town Council

Subject: AN AMENDMENT TO TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE TO ALLOW SOLID METAL AND VINYL AS OPTIONAL MATERIALS FOR SOLID FENCING IN COMMERCIAL ZONES, ALLOW CARGO/SHIPPING CONTAINERS TO BE USED IN SERVICE COMMERCIAL (C-S) ZONE IN THE APPLE VALLEY VILLAGE, MODIFY THE DEFINITION AND FOOTNOTE RELATED TO SCREENING MATERIAL, AND PROVIDE DESIGN CRITERIA FOR CARGO CONTAINERS TO BE ALLOWED IN RESIDENTIAL ZONES. IN ADDITION, AN AMENDMENT TO THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN IS PROPOSED TO ALLOW SOLID METAL AND VINYL AS OPTIONAL MATERIALS FOR SOLID FENCING OF STORAGE AREAS.

From: Douglas Robertson, Town Manager

Submitted by: Lori Lamson, Assistant Town Manager

Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

- A. **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.
- B. **Find** the facts presented within the staff report, including the attached Planning Commission Resolution No. 2019-15 adopted on November 6, 2019, support the required Findings for approval of the proposed Development Code Amendment and North Apple Valley Industrial Specific Plan Amendment No. 8 and adopt the Findings.
- C. **Move** to waive the reading of Ordinance No. 523 in its entirety and read by title only.

- D. **Introduce** Ordinance No. 523 approving Development Code Amendment No. 2019-014 and North Apple Valley Industrial Specific Plan Amendment No. 8; and
- E. **Direct** staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

SUMMARY:

On November 6, 2019, the Planning Commission adopted Planning Commission Resolution No. 2019-015 recommending the Town Council approve Development Code Amendment No. 2019-014 and North Apple Valley Industrial Specific Plan Amendment No. 8. These amendments were initiated by the Town Council at the September 10, 2019 Town Council meeting. The amendments to the Development Code and the Specific Plan pertain to the ability to expand the types of fencing material for screening storage areas in commercial and industrial areas, while restricting the use of chain link when viewed from public right-of-way. Additionally, the amendments would allow for cargo containers to be used in the Service Commercial (C-S) zone, provided that the location and appearance standards currently in the Code for the containers allowed Village Commercial (C-V) zone are maintained. The amendment restricts the use of cargo containers in the residential zone and provides a description of what needs to be done to the exterior of a cargo container in order to allow it in a residential zone.

ANALYSIS:

The Code currently allows cargo containers in the C-V zone, provided that placement and maintenance criteria are followed. This amendment would expand the use into the C-S zone, within the Village, with the same requirements as currently described for the C-V zone. The prohibition of cargo containers in residential zones is already a provision in the Code. This amendment describes the alternations necessary to a Cargo Container, to allow it to be located in a residential zone. This includes covering all four sides and designing a compatible roof structure with materials similar with the primary structure.

The amendment also includes language to allow vinyl and solid metal, such as steel, as appropriate screening materials. As part of this effort in modifying the Development Code, it provides opportunity to clean up the language and make it consistent. As an overall rule, it is best to not have regulations within definitions or footnotes. As such, the proposed amendment includes the removal of the definition "Screening Materials" and remove Footnote No. 9 of Table 9.35.080 and incorporate this language into Section 9.35.080 standards.

Chain link with slats are currently allowed in the (C-S) and (C-V) districts in accordance with Section 9.35.080.A and the current definition of "Screening Materials". In order to keep regulations out of the definitions, language has been added to incorporate this into the Section.

Staff has prepared the following modifications for the Town Council's consideration. The additional language is shown in **bold underline** and the removed language is in ~~strike~~

out. The context of the provisions within the Code language has been included for your reference.

- Modify the first and second paragraphs of subsection A. “Outdoor Storage” of Section 9.35.080 “Outdoor Storage and Use” of Chapter 9.35 “Commercial and Office Districts” to read as follows:

A. ***Outdoor Storage.*** Outdoor storage of materials and equipment is permitted in **all commercial districts and the M-U district, with the exception of the Office Professional (O-P) district, the C-S, C-V and M-U districts** when it is clearly incidental to the permitted use on the site and is in compliance with the provisions of this Chapter. Such storage shall be located in the rear one-half of the site and screened completely from view from any adjoining property or roadway by a solid wall or fence at least six (6) feet in height, but not to exceed ten (10) feet in height. Said fence or wall shall be constructed of or finished with materials that are compatible with those of the primary building on the site. In the M-U district, outdoor storage shall be screened by a solid decorative block or stucco wall. **Acceptable materials can include, masonry, stucco, solid metal, but shall not include corrugated metal. Rigid vinyl panels may also be approved by the Director, when consistent with the provisions of the Development Code.** Items that are being stored outdoors shall not be stacked to a height exceeding the height of the required wall or fence.

In the C-S and C-V districts, when on-site barriers are necessary for security, open view fencing shall be used. Open view fencing shall have pilasters of materials that complement the building architecture. Metal rails and pickets shall be sufficiently spaced to restrict trespassing. Spires or spikes or other detailing may be used to impede trespassing. **Chain link with metal slats can be used in these districts as long as the slats are maintained in such a manner so the material being stored behind the fencing cannot be seen directly or indirectly through the fence.** Barbed wire, razor wire, electrification or similar barriers are only permitted for law enforcement agency vehicle impound yards.

- Modify subsection E. “Cargo Containers” of Section 9.35.080 “Outdoor Storage and Use” of Chapter 9.35 “Commercial and Office Districts” to read as follows:

E. ***Cargo Containers.*** In the Village Commercial (C-V) **and Service Commercial (C-S) Districts** district, cargo containers shall be permitted subject to Section 9.36.170.D.

- Remove Footnote (9) of Table 9.35.040.A “Site Development Standards” of Section 9.35.040 “Site Development Standards” of Chapter 9.35 “Commercial and Office Districts”.

~~(9) — Outdoor storage of materials and equipment shall not be permitted within the O-P, Office Professional, District. Outdoor storage of materials and equipment shall not be permitted in the Commercial Districts except when it is clearly incidental to the permitted use on the site and in compliance with the provisions of this chapter. Such storage shall be located in the rear of the site and shall be completely screened from view from any roadway by a solid wall or opaque fence at least six (6) feet in height but not to exceed ten (10) feet in height. Said opaque fence or solid wall shall be constructed of or finished with materials that are similar to or compatible with those of the primary building on the site. Items that are being stored outdoors shall not be stacked to a height exceeding the height of the required wall or opaque fence. When on site barriers are necessary for security, open fencing shall be used. High voltage electrification is not permitted.~~

- Remove “Screening Materials” from Chapter 9.08 “Definitions”

Screening Materials

When the provisions of this Code allow for, or require, the installation of fencing to screen objects located behind said fence from public view, such fencing shall consist of new solid materials or, if chain link fencing, such chain link fencing must include redwood or durable plastic/metallic slats installed and maintained in such a manner so the material being stored behind the fencing cannot be seen directly, indirectly, silhouetted or in any other manner, directly or at an oblique angle to the fence.

- Modify Paragraph D. “Cargo Container” of Section 9.36.170 “Outdoor Displays, Sales and Uses” of Chapter 9.36 “Specific Use Regulations/Commercial and Office” to read as follows:

D. Cargo Container. All properties zoned Village Commercial (C-V) **and Service Commercial (C-S)** 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 standards below.~~ **For this purpose the Apple Valley Village area shall be defined as the area east of Navajo Road, south of Esaws Road, west of Central Road and north of Nisqually Road:**

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 **all required setback** ~~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.

- Amend Section 9.29.020 “Accessory Uses & Structures” of Chapter 9.29 “Specific Use Regulations for Residential Districts” to read as follows:

E. Architectural Compatibility. Accessory structures larger than one hundred twenty (120) square feet in area or taller than eight (8) feet in height shall meet the architectural compatibility with primary structure requirements for residential districts found in Chapter 9.31, *Residential Design Standards* of this Code.

I. Accessory structures larger than one-hundred, twenty (120) square feet in area or taller than eight (8) feet in height and located in front of the back line of the house shall be constructed of materials and colors which are similar to the primary building on the site. Structures built on site, or structures assembled from modular or similar units on site, or structures assembled off site and moved on site as one unit may not use metal exteriors except as described below and as described in Section 9.29.022. Structures built, assembled or fabricated, off site having metal exteriors, such as metal containers, cargo containers, freight and similar containers, modified trailers, modified rail-road cars, butler buildings, and the like, are expressly prohibited, **unless said container and roofline/structure is covered or skinned with siding materials similar to the primary residence (i.e. wood, stucco, or masonry) and the design is compatible with the primary residence. All applicable building permits for alteration of prefabricated structure shall be required.**

Structures built on site, or structures assembled from modular or similar units on site, or structures assembled off site and moved on site as one unit, including metal sheds, may use metal exteriors when the Planning Commission determines that the proposed structure shall have an appearance emulating and simulating the color, texture and appearance of the main structure on site. Said metal exterior must provide the same texture depth and other physical characteristics as the exterior of the main structure on the property. Exceptions to Planning Commission review requirements are carports and accessory structures or shelters for the storage of cars, boats, recreational vehicles (RVs), trailers, self-propelled equipment and related bulky items as described in Section 9.29.022.

2. Accessory structures built on site located to the rear of the back line of the house may be constructed of any material allowed by the Uniform Building Code and may utilize any desired architectural design except that metal may not be used on the exteriors of such structures unless reviewed and approved by the Planning Commission as described below or as allowed under Section 9.29.022. Metal, freight, cargo or similar containers are not allowed within any residential district, except the Residential-Agriculture, R-A, District when placed in a manner where such containers are not visible from the public right-of-way.

○ Amend Section 9.31.030 “Single Family Architectural Design Standards” of Chapter 9.31 “Residential Design Standards” to read as follows:

A. Accessory Features

I. Accessory Structures. The design of accessory structures (greater than 120 square feet) including second units, garages, guesthouses, cabanas and storage buildings shall be architecturally compatible with the primary structure through the use of compatible building materials, walls/roofs/trellises, fence/wall connections and/or landscaping. **Cargo containers or prefabricated shipping containers shall be expressly prohibited with the exception of the acceptable modifications described in Section 9.29.020.**

- Amend the North Apple Valley Industrial Specific Plan Subsection F. “Design Standards and Guidelines” of Section 3 “Development Standards and Guidelines” to read as follows:

4. Walls and Fences

a. General Provisions

1. Unless required for a specific screening or security purpose, walls should be avoided within commercial areas. Walls shall be kept as low as possible while still performing their screening or security function.
2. The design and architecture of all walls, retaining walls, and fences shall reinforce the Town's desert character by the use of natural looking materials which can be expected to withstand the extremes of the high desert climate. **Masonry, stucco or solid metal are examples of acceptable materials. Rigid vinyl panels can be approved by the Director when consistent with the provisions of the Specific Plan and the Development Code. Corrugated metal shall not be permitted.**
3. Wall design shall be compatible with the architectural character of the primary structures and the surrounding area.
4. Long expanses of wall surface or fence surface shall be offset and architecturally designed to avoid monotony. Pilasters shall be provided at regular intervals consistent with the length and scale of the wall but at a minimum of every fifty (50) feet and landscape pockets shall be provided.
5. Construction materials and colors shall be consistent with the project architecture and provide an element of continuity throughout the project.
6. Walls shall be designed to blend with the architecture of the site, both sides of all walls shall be finished.
7. Retaining walls of more than one hundred twenty (120) square feet shall be constructed of finished decorative material which is compatible with the primary material used on the main building.
8. When on-site barriers are necessary for security, open view fencing shall be used. Open view fencing shall have pilasters of a material which complements the building architecture. Metal rails and pickets shall be sufficiently spaced to restrict trespassing. Spires or spikes or other detailing may be used to impede trespassing.

FINDINGS:

An Amendment to the Development Code and the North Apple Valley Industrial Specific Plan requires two (2) “Findings” for both, as listed within Development Code Section 9.06.060. For consideration, the required Findings are listed below, along with a comment addressing each. If there is concurrence with these comments, it may be adopted. If the Commission/Council wishes to modify the offered comments, after considering input and

public testimony at the public hearing, modifications to the Findings and Code Amendment can be included.

Development Code Amendment

1. The proposed Amendment is consistent with the General Plan; and

Comment: The General Plan is the blueprint for the community's future growth. Specific Goals and Objectives are provided within each of the adopted General Plan's State mandated elements. The proposed Amendment will amend the development requirements expanding the use of cargo containers in the C-S zone, establishing criteria for which cargo containers can be located in residential zones and the use of metal and vinyl fencing for screening storage areas in commercial zones. The standards and review process will ensure that the community's existing high quality of design and aesthetic integrity will be preserved.

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

Comment: The proposed Amendment will amend the development requirements expanding the use of cargo containers in the C-S zone, establishing criteria for which cargo containers can be located in residential zones and the use of metal and vinyl fencing for screening storage areas in commercial zones. The standards and review process will ensure that the community's existing high quality of design and aesthetic integrity will be preserved and will not be detrimental to the public health, safety or welfare of the community.

North Apple Valley Industrial Specific Plan Amendment

1. The proposed Amendment is consistent with the General Plan; and

Comment: Find that the changes proposed by Specific Plan No. 2005-01 Amendment No. 8 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan and the North Apple Valley Industrial Specific Plan. The proposed Amendment amends the development requirements expanding the use of cargo containers into Specific Plan area, establishing criteria for which cargo containers can be located with residential uses and the use of metal and vinyl fencing for screening storage areas. The standards and review process will ensure that the community's existing high quality of design and aesthetic integrity will be preserved and will not be detrimental to the public health, safety or welfare of the community, and

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

Comment: Find that, the amendment currently proposed is consistent with the adopted North Apple Valley Industrial Specific Plan and does not constitute a change in build out potential. Further, 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 Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

NOTICING

Development Code Amendment No. 2019-014 and North Apple Valley Industrial Specific Plan Amendment No. 8 was advertised as a public hearing in the Apple Valley News newspaper on November 29, 2019.

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.

ATTACHMENTS:

1. Ordinance No. 523
2. Planning Commission Resolution No. 2019-015

ORDINANCE NO. 523

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 9.08 “DEFINITIONS”, CHAPTER 9.35 “COMMERCIAL AND OFFICE DISTRICTS”, CHAPTER 9.36 “SPECIFIC USE REGULATIONS /COMMERCIAL AND OFFICE”, CHAPTER 9.29 “SPECIFIC USE REGULATIONS FOR RESIDENTIAL DISTRICTS” 9.31 “RESIDENTIAL DESIGN STANDARDS” TO ALLOW SOLID METAL AND VINYL AS OPTIONAL MATERIALS FOR SOLID FENCING IN COMMERCIAL ZONES, ALLOW CARGO/SHIPPING CONTAINERS TO BE USED IN C-S ZONE IN THE APPLE VALLEY VILLAGE, AND PROVIDE DESIGN CRITERIA FOR CARGO CONTAINERS TO BE ALLOWED IN RESIDENTIAL ZONES. IN ADDITION, AMEND THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN SECTION 3 “DEVELOPMENT STANDARDS AND GUIDELINES” TO ALLOW SOLID METAL AND VINYL AS OPTIONAL MATERIALS FOR SOLID FENCING OF STORAGE AREAS.

WHEREAS, The General Plan of the Town of Apple Valley was adopted by the Town Council on August 11, 2009; and

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, the North Apple Valley Industrial Specific Plan (SP No. 2005-001) was adopted by the Town Council on October 24, 2006; and

WHEREAS, the North Apple Valley Industrial Specific Plan has been previously modified by the Town Council seven other instances, on the recommendation of the Planning Commission; and

WHEREAS, Development Code Amendment No. 2019-014 and Amendment No. 8 of Specific Plan No. 2005-001 “North Apple Valley Industrial Specific Plan”, are consistent with the General Plan and Municipal Code of the Town of Apple Valley;

WHEREAS, On September 10, 2019, the Town Council initiated a Development Code Amendment, directing staff to draft language that would allow solid metal and vinyl as optional materials for solid fencing in commercial zones, allow cargo/shipping containers to be used in C-S zone in the Apple Valley Village, and provide design criteria for cargo containers to be allowed in residential zones. In addition, amend the North Apple Valley Industrial Specific Plan to allow solid metal and vinyl as optional materials for solid

fencing of storage areas.

; **WHEREAS**, Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapter 9.35 “Commercial and Office Districts”, Chapter 9.36 “Specific Use Regulations/Commercial and Office”, Chapter 9.29 “Specific Use Regulations For Residential Districts” 9.31 “Residential Design Standards” to allow solid metal and vinyl as optional materials for solid fencing in commercial zones, allow cargo/shipping containers to be used in Service Commercial C-S zone in the Apple Valley Village, and provide design criteria for cargo containers to be allowed in residential zones; and,

WHEREAS, Specific changes are proposed to Specific Plan No. 2005-001 “North Apple Valley Industrial Specific Plan” Section No. 3” “Development Standards and Guidelines” to allow solid metal and vinyl as optional materials for solid fencing of storage areas; and

WHEREAS, on November 29, 2019, Development Code Amendment No. 2019-014 and Amendment No. 8 of Specific Plan No. 2005-001 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, on November 6, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2019-014 and Amendment No. 8 of Specific Plan No. 2005-001 receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2019-011 and Amendment No. 8 of Specific Plan No. 2005-001 are consistent with the Land Use Element goals and policies of 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 Council Members at said hearing, the Town Council of the Town of Apple Valley, California, does hereby ordain as follows, including making the following findings and actions:

Section 1. Find that the changes proposed by Development Code Amendment No. 2019-014 and Amendment No. 8 to Specific Plan No. 2005-001 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. 2019-014 and Amendment No. 8 to Specific Plan No. 2005-001 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend the first and second paragraphs of subsection A. “Outdoor Storage” of Section 9.35.080 “Outdoor Storage and Use” of Chapter 9.35 “Commercial and Office Districts” to read as follows:

- A. *Outdoor Storage.*** Outdoor storage of materials and equipment is permitted in all commercial districts and the M-U district, with the exception of the Office Professional (O-P) district, when it is clearly incidental to the permitted use on the site and is in compliance with the provisions of this Chapter. Such storage shall be located in the rear one-half of the site and screened completely from view from any adjoining property or roadway by a solid wall or fence at least six (6) feet in height, but not to exceed ten (10) feet in height. Said fence or wall shall be constructed of or finished with materials that are compatible with those of the primary building on the site. In the M-U district, outdoor storage shall be screened by a solid decorative block or stucco wall. Acceptable materials can include, masonry, stucco, solid metal, but shall not include corrugated metal. Rigid vinyl panels may also be approved by the Director, when consistent with the provisions of the Development Code. Items that are being stored outdoors shall not be stacked to a height exceeding the height of the required wall or fence.

In the C-S and C-V districts, when on-site barriers are necessary for security, open view fencing shall be used. Open view fencing shall have pilasters of materials that complement the building architecture. Metal rails and pickets shall be sufficiently spaced to restrict trespassing. Spires or spikes or other detailing may be used to impede trespassing. Chain link with metal slats can be used in these districts as long as the slats are maintained in such a manner so the material being stored behind the fencing cannot be seen directly or indirectly through the fence. Barbed wire, razor wire, electrification or similar barriers are only permitted for law enforcement agency vehicle impound yards.

Section 4. Amend subsection E. “Cargo Containers” of Section 9.35.080 “Outdoor Storage and Use” of Chapter 9.35 “Commercial and Office Districts” to read as follows:

- E. *Cargo Containers.*** In the Village Commercial (C-V) and Service Commercial (C-S) Districts, cargo containers shall be permitted subject to Section 9.36.170.D.

Section 5. Remove Footnote (9) of Table 9.35.040.A “Site Development Standards” of Section 9.35.040 “Site Development Standards” of Chapter 9.35 “Commercial and Office Districts”, and renumber remaining footnotes.

Section 6. Remove “Screening Materials” from Chapter 9.08 “Definitions”.

Section 7. Amend Paragraph D. “Cargo Container” and subparagraph 7. of Paragraph D. “Cargo Container” of Section 9.36.170 “Outdoor Displays, Sales and Uses” of Chapter 9.36 “Specific Use Regulations/Commercial and Office” to read as follows:

D. Cargo Container. All properties zoned Village Commercial (C-V) and Service Commercial (C-S) within the Apple Valley Village area may use a cargo container for storage purposes subject to a Minor Development Permit and conforms to the below standards. For this purpose the Apple Valley Village area shall be defined as the area east of Navajo Road, south of Esaws Road, west of Central Road and north of Nisqually Road:

7. Placement of the container shall meet all required setback standards.

Section 8. Amend Section 9.29.020 “Accessory Uses & Structures” of Chapter 9.29 “Specific Use Regulations for Residential Districts” to read as follows:

E. Architectural Compatibility. Accessory structures larger than one hundred twenty (120) square feet in area or taller than eight (8) feet in height shall meet the architectural compatibility with primary structure requirements for residential districts found in Chapter 9.31, *Residential Design Standards* of this Code.

Section 9. Amend paragraph 1. of subsection E “Architectural Compatibility” of “Section 9.29.020 “Accessory Uses & Structures” of Chapter 9.29 “Specific Use Regulations for Residential Districts” to read as follows:

1. Accessory structures larger than one-hundred, twenty (120) square feet in area or taller than eight (8) feet in height and located in front of the back line of the house shall be constructed of materials and colors which are similar to the primary building on the site. Structures built on site, or structures assembled from modular or similar units on site, or structures assembled off site and moved on site as one unit may not use metal exteriors except as described below and as described in Section 9.29.022. Structures built, assembled or fabricated, off site having metal exteriors, such as metal containers, cargo containers, freight and similar containers, modified trailers, modified rail-road cars, butler buildings, and the like, are expressly prohibited, unless said container and roofline/structure is covered or skinned with siding materials (i.e. wood, stucco, or masonry) similar to the primary residence and the design is compatible with the primary residence. All applicable building permits for alteration of prefabricated structure shall be required.

Section 10. Amend paragraph 1. “Accessory Structures” of subsection A. “Accessory Features” of Section 9.31.030 “Single Family Architectural Design Standards” of Chapter 9.31 “Residential Design Standards” to read as follows:

1. **Accessory Structures.** The design of accessory structures (greater than 120 square feet) including second units, garages, guesthouses, cabanas and storage buildings shall be architecturally compatible with the primary structure through the use of compatible building materials, walls/roofs/trellises, fence/wall connections and/or landscaping. Cargo containers or prefabricated shipping containers shall be expressly

prohibited with the exception of the acceptable modifications described in Section 9.29.020.

Section 11. Amend North Apple Valley Industrial Specific Plan subparagraph 2 of paragraph a. "General Provisions" of subsection 4. "Walls and Fences" of subsection F. "Design Standards and Guidelines" of Section 3 "Development Standards and Guidelines" to read as follows:

- 2. The design and architecture of all walls, retaining walls, and fences shall reinforce the Town's desert character by the use of natural looking materials which can be expected to withstand the extremes of the high desert climate. Masonry, stucco, or solid metal are examples of acceptable materials. Rigid vinyl panels can be approved by the Director when consistent with the provisions of this Specific Plan and the Development Code. Corrugated metal shall be prohibited

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 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 14th day of January, 2020.

Honorable _____, Mayor

ATTEST:

Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. Thomas Rice, Town Attorney

Mr. Douglas B. Robertson, Town Manager

PLANNING COMMISSION RESOLUTION NO. 2019-015

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2019-014 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.08 “DEFINTIONS”, CHAPTER 9.35 “COMMERCIAL AND OFFICE DISTRICTS”, CHAPTER 9.36 “SPECIFIC USE REGULATIONS /COMMERCIAL AND OFFICE”, CHAPTER 9.29 “SPECIFIC USE REGULATIONS FOR RESIDENTIAL DISTRICTS” 9.31 “RESIDENTIAL DESIGN STANDARDS” TO ALLOW SOLID METAL AND VINYL AS OPTIONAL MATERIALS FOR SOLID FENCING IN COMMERCIAL ZONES, ALLOW CARGO/SHIPPING CONTAINERS TO BE USED IN C-S ZONE IN THE APPLE VALLEY VILLAGE, AND PROVIDE DESIGN CRITERIA FOR CARGO CONTAINERS TO BE ALLOWED IN RESIDENTIAL ZONES. IN ADDITION, RECOMMEND THAT THE TOWN COUNCIL ADOPT AMENDMENT NO. 8 OF SPECIFIC PLAN NO. 2005-001 “NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN” AMENDING SECTION 3 “DEVELOPMENT STANDARDS AND GUIDELINES” TO ALLOW SOLID METAL AND VINYL AS OPTIONAL MATERIALS FOR SOLID FENCING OF STORAGE AREAS.

WHEREAS, The General Plan of the Town of Apple Valley was adopted by the Town Council on August 11, 2009; and

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, the North Apple Valley Industrial Specific Plan (SP No. 2005-001) was adopted by the Town Council on October 24, 2006; and

WHEREAS, the North Apple Valley Industrial Specific Plan has been previously modified by the Town Council seven other instances, on the recommendation of the Planning Commission; and

WHEREAS, Development Code Amendment No. 2019-014 and Amendment No. 8 of Specific Plan No. 2005-001 “North Apple Valley Industrial Specific Plan”, are consistent with the General Plan and Municipal Code of the Town of Apple Valley;

WHEREAS, On September 10, 2019, the Town Council initiated a Development Code Amendment, directing staff to draft language that would allow solid metal and vinyl as optional materials for solid fencing in commercial zones, allow cargo/shipping containers to be used in C-S zone in the Apple Valley Village, and provide design criteria

for cargo containers to be allowed in residential zones. In addition, amend the North Apple Valley Industrial Specific Plan to allow solid metal and vinyl as optional materials for solid fencing of storage areas.

WHEREAS, Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapter 9.35 “Commercial and Office Districts”, Chapter 9.36 “Specific Use Regulations/Commercial and Office”, Chapter 9.29 “Specific Use Regulations For Residential Districts” 9.31 “Residential Design Standards” to allow solid metal and vinyl as optional materials for solid fencing in commercial zones, allow cargo/shipping containers to be used in Service Commercial C-S zone in the Apple Valley Village, and provide design criteria for cargo containers to be allowed in residential zones; and,

WHEREAS, Specific changes are proposed to Specific Plan No. 2005-001 “North Apple Valley Industrial Specific Plan” Section No. 3” “Development Standards and Guidelines” to allow solid metal and vinyl as optional materials for solid fencing of storage areas; and

WHEREAS, on October 25, 2019, Development Code Amendment No. 2019-014 and Amendment No. 8 of Specific Plan No. 2005-001 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, on November 6, 2019 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2019-014 and Amendment No. 8 of Specific Plan No. 2005-001 receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2019-011 and Amendment No. 8 of Specific Plan No. 2005-001 are consistent with the Land Use Element goals and policies of 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, 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. 2019-011 and Amendment No. 8 of Specific Plan No. 2005-001 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 the first and second paragraphs of subsection A. "Outdoor Storage" of Section 9.35.080 "Outdoor Storage and Use" of Chapter 9.35 "Commercial and Office Districts" to read as follows:

B. Outdoor Storage. Outdoor storage of materials and equipment is permitted in all commercial districts and the M-U district, with the exception of the Office Professional (O-P) district, when it is clearly incidental to the permitted use on the site and is in compliance with the provisions of this Chapter. Such storage shall be located in the rear one-half of the site and screened completely from view from any adjoining property or roadway by a solid wall or fence at least six (6) feet in height, but not to exceed ten (10) feet in height. Said fence or wall shall be constructed of or finished with materials that are compatible with those of the primary building on the site. In the M-U district, outdoor storage shall be screened by a solid decorative block or stucco wall. Acceptable materials can include, masonry, stucco, solid metal, but shall not include corrugated metal. Rigid vinyl panels may also be approved by the Director, when consistent with the provisions of the Development Code. Items that are being stored outdoors shall not be stacked to a height exceeding the height of the required wall or fence.

In the C-S and C-V districts, when on-site barriers are necessary for security, open view fencing shall be used. Open view fencing shall have pilasters of materials that complement the building architecture. Metal rails and pickets shall be sufficiently spaced to restrict trespassing. Spires or spikes or other detailing may be used to impede trespassing. Chain link with metal slats can be used in these districts as long as the slats are maintained in such a manner so the material being stored behind the fencing cannot be seen directly or indirectly through the fence. Barbed wire, razor wire, electrification or similar barriers are only permitted for law enforcement agency vehicle impound yards.

Section 4. Amend subsection E. "Cargo Containers" of Section 9.35.080 "Outdoor Storage and Use" of Chapter 9.35 "Commercial and Office Districts" to read as follows:

E. Cargo Containers. In the Village Commercial (C-V) and Service Commercial (C-S) Districts, cargo containers shall be permitted subject to Section 9.36.170.D.

Section 5. Remove Footnote (9) of Table 9.35.040.A "Site Development Standards" of Section 9.35.040 "Site Development Standards" of Chapter 9.35 "Commercial and Office Districts", and renumber remaining footnotes.

Section 6. Remove “Screening Materials” from Chapter 9.08 “Definitions”.

Section 7. Amend Paragraph D. “Cargo Container” and subparagraph 7. of Paragraph D. “Cargo Container” of Section 9.36.170 “Outdoor Displays, Sales and Uses” of Chapter 9.36 “Specific Use Regulations/Commercial and Office” to read as follows:

D. Cargo Container. All properties zoned Village Commercial (C-V) and Service Commercial (C-S) within the Apple Valley Village area may use a cargo container for storage purposes subject to a Minor Development Permit and conforms to the below standards. For this purpose the Apple Valley Village area shall be defined as the area east of Navajo Road, south of Esaws Road, west of Central Road and north of Nisqually Road:

7. Placement of the container shall meet all required setback standards.

Section 8. Amend Section 9.29.020 “Accessory Uses & Structures” of Chapter 9.29 “Specific Use Regulations for Residential Districts” to read as follows:

E. Architectural Compatibility. Accessory structures larger than one hundred twenty (120) square feet in area or taller than eight (8) feet in height shall meet the architectural compatibility with primary structure requirements for residential districts found in Chapter 9.31, *Residential Design Standards* of this Code.

Section 9. Amend paragraph 1. of subsection E “Architectural Compatibility” of “Section 9.29.020 “Accessory Uses & Structures” of Chapter 9.29 “Specific Use Regulations for Residential Districts” to read as follows:

1. Accessory structures larger than one-hundred, twenty (120) square feet in area or taller than eight (8) feet in height and located in front of the back line of the house shall be constructed of materials and colors which are similar to the primary building on the site. Structures built on site, or structures assembled from modular or similar units on site, or structures assembled off site and moved on site as one unit may not use metal exteriors except as described below and as described in Section 9.29.022. Structures built, assembled or fabricated, off site having metal exteriors, such as metal containers, cargo containers, freight and similar containers, modified trailers, modified rail-road cars, butler buildings, and the like, are expressly prohibited, unless said container and roofline/structure is covered or skinned with siding materials (i.e. wood, stucco, or masonry) similar to the primary residence and the design is compatible with the primary residence. All applicable building permits for alteration of prefabricated structure shall be required.

Section 10. Amend paragraph 1. “Accessory Structures” of subsection A. “Accessory Features” of Section 9.31.030 “Single Family Architectural Design Standards” of Chapter 9.31 “Residential Design Standards” to read as follows:

3. **Accessory Structures.** The design of accessory structures (greater than 120 square feet) including second units, garages, guesthouses, cabanas and storage buildings

shall be architecturally compatible with the primary structure through the use of compatible building materials, walls/roofs/trellises, fence/wall connections and/or landscaping. Cargo containers or prefabricated shipping containers shall be expressly prohibited with the exception of the acceptable modifications described in Section 9.29.020.

Section 11. Amend North Apple Valley Industrial Specific Plan subparagraph 2 of paragraph a. “General Provisions” of subsection 4. “Walls and Fences” of subsection F. “Design Standards and Guidelines” of Section 3 “Development Standards and Guidelines” to read as follows:

4. The design and architecture of all walls, retaining walls, and fences shall reinforce the Town's desert character by the use of natural looking materials which can be expected to withstand the extremes of the high desert climate. Masonry, stucco, or solid metal are examples of acceptable materials. Rigid vinyl panels can be approved by the Director when consistent with the provisions of this Specific Plan and the Development Code. Corrugated metal shall be prohibited

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 6th day of November 2019.

Vice Chairman Bruce Kallen

ATTEST:

I, Maribel Hernandez, 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 6th day of November 2019, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ms. Maribel Hernandez, Planning Commission Secretary