

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

A REQUEST TO CONSIDER AN AMENDMENT TO TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING CHAPTERS 9.16 “CONDITIONAL AND SPECIAL USE PERMITS” AND 9.17 “DEVELOPMENT PERMITS” OF THE DEVELOPMENT CODE AS IT RELATES TO PROVIDING ADMINISTRATIVE AUTHORITY TO APPROVE EXTENSIONS OF TIME FOR CONDITIONAL/SPECIAL USE PERMITS (CUP AND SUP) AND DEVELOPMENT PERMITS (DP).

(Continued on next page)

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 that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
2. **Find** the facts presented within the staff report support the required Findings for approval of an amendment to the Development Code, and adopt the Findings.
3. **Find** that the proposed Town Council Ordinance is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and that it is necessary to preserve the health, safety and general welfare of the citizens of Apple Valley.
4. **Move** to waive the reading of Ordinance No. 397 in its entirety and read by title only.
5. **Introduce** Ordinance No. 397, amending Chapters 9.16 “Conditional and Special Use Permits” and 9.17 “Development Permits” of the Development Code as it relates to providing administrative authority to approve extensions of time for Conditional/Special Use Permits (CUP and SUP) and Development Permits (DP).
6. **Direct** staff to file a Notice of Exemption.

Proposed by: Planning Division

Item Number _____

Town Manager Approval: _____

Budget Item Yes No

Town Council Meeting: June 23, 2009

SUMMARY STATEMENT:

At the regularly scheduled February 10, 2009 Town Council meeting, Mayor Pro Tem Nassif requested that the issue of extending the expiration time frames for an approved Conditional Use Permit (CUP), Special Use Permit (SUP) and Development Permit (DP) entitlements be included as a discussion item on a future agenda. Council concurred and directed staff to include the possibility of extending the expiration dates of current CUP and DP entitlements.

At the April 14, 2009 Town Council meeting, the Council directed staff to initiate a Development Code Amendment (DCA) that would extend entitlement expiration dates for CUP/SUPs and DPs.

On May 6, 2009, the Planning Commission conducted a public hearing and adopted Planning Commission Resolution No. 2009-002 (attached), recommending the Council approve the attached Ordinance.

ANALYSIS:

The current lapse of permits for CUP/SUP and DP approvals is three (3) years for a CUP/SUP and two (2) years for a DP. Due to the current economic climate, construction of new buildings, including commercial and residential development, is very slow. Recently, the State of California implemented an automatic extension of time for approved tract and parcel maps, allowing projects additional time to obtain funding and to ride out the poor economic climate. This same automatic extension was given by the state and, subsequently, the Town in the mid 1990s during the last recession. Because the economic climate is worse now than it was in the 1990's, the same consideration could be given by the Town for approved CUP/SUP and DP projects.

In order to provide consistency for both classes of entitlements, an automatic extension of two (2) years for a CUP and three (3) years for a DP could be given. This would provide a five (5) year expiration date for each entitlement. To change the expiration times in the Development Code requires a Development Code Amendment. The Council may wish to consider allowing these new expiration time frames to be retroactive to projects that were approved prior to the downturn in the economy. The new expiration dates could include all approved CUP/SUP and DP entitlements that are currently valid and have not expired. Once the economy has fully recovered, the Council could consider reducing the new five (5) year expiration dates.

In addition to the increase in the expiration time frames, applicants would still be able to apply for an Extension of Time not to exceed two (2) years. Extension of Time requests would be considered by the original review authority. Staff recommends the following language to be included into Subsections of the Development Code:

9.16.100 Lapse of Permits/Expiration *(Amended Ord. 309)*

C. Automatic Time Extension of a Major/Minor Conditional Use Permit or Special Use Permit. The Community Development Director may grant an automatic Extension of Time to an approved Conditional/Special Use Permit, as provided by this Section. The use permit shall be extended beyond the applicable expiration date to twenty-four (24) months, as specified, for any Major/Minor Conditional Use Permit or Special Use Permit.

9.17.110 Extension of Time

A. The original review authority (Planning Division, Director or Commission) may, upon an application being filed sixty (60) days prior to expiration and for good cause, grant a time

extension not to exceed two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Planning Division, Director, Commission or Council when appropriate, shall ensure that the previously approved project is consistent with all current Development Code provisions and that the findings for approval of a Development in compliance with Section 9.17.080, *Required Findings*, of this Chapter, can be made. The Community Development Director may grant an automatic Extension of Time to an approved Development Permit as provided by in 9.17.110 (2) below.

- B. Automatic Extension of a Development Permit . The Development Permit shall be extended beyond the applicable expiration date to thirty six (36) months, as specified, for any Development Permit. This extension is in addition to any other extension of the expiration date provided for in this Chapter.

FINDINGS:

Prior to approval of any Amendment to the Development Code, the Council, based upon the advice of the Planning Commission, must make specific "Findings" as listed with 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.

Required "Findings":

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

Comment: The General Plan provides the basic framework for land development within the Town of Apple Valley, with the Development Code setting the specific standards and criteria to fulfill the General Plan's Goals and Policies. The proposed Code Amendment shall establish increased expiration times for a CUP from three (3) years to a total of five (5) years and a DP from two (2) years to a total of five (5) years. The changes proposed to the Development Code, in establishing increased expiration times will allow for CUP/SUP and DPs the additional time for applicants to obtain funding and to progress during this adverse economic climate, thereby, protecting the property values and providing an improved living environment for Apple Valley residents.

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

Comment: Amending the Code as proposed under Amendment No. 2009-001 will amend the Town's Development Code by establishing increased expiration time frames for a CUP from three (3) years to a total of five (5) years and a DP from two (2) years to a total of five (5) years. These changes are minor in nature and shall have minimal to no impacts upon individual sites, surrounding properties or the community as a whole. Thus, the amendment proposed shall result in a change to the Code that addresses the community's living environment while providing for the health, safety and general welfare of the citizens of the Town of Apple Valley.

NOTICING:

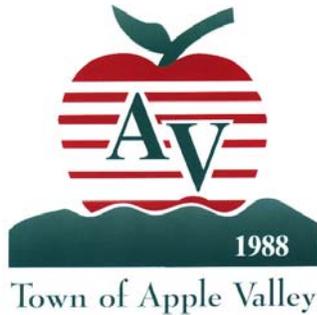
Development Code Amendment No. 2009-001 was advertised as a public hearing in the Apple Valley News newspaper on June 5, 2009 as required under Development Code Section 9.13.030 "Notice if Public Hearings".

RECOMMENDATION:

Following receipt of public input and discussion by the Council, it is recommended that the Town Council approve DCA No. 2009-001 and move to introduce Ordinance No. 397 amending Chapter 9.16 "Conditional and Special Use Permits" and 9.17 "Development Permits" of the Development Code as it relates to providing administrative authority to approve extensions of time for Conditional/Special Use and Development Permits.

Attachments:

Planning Commission Staff Report May 6, 2009
Planning Commission Resolution No. 2009-002
Draft Ordinance No. 397



TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

AGENDA DATE:	May 6, 2009
CASE NUMBER:	Development Code Amendment No. 2009-001
APPLICANT:	Town of Apple Valley
PROPOSAL:	A request to consider an Amendment to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapters 9.16 “Conditional and Special Use Permits” and 9.17 “Development Permits” of the Development Code as it relates to providing administrative authority to approve extensions of time for Conditional/Special Use Permits (CUP and SUP) and Development Permits (DP). This would increase the expiration times for a CUP from three (3) years to a total of five (5) years and a DP from two (2) years to a total of five (5) years.
LOCATION:	Town-wide
EXISTING GENERAL PLAN DESIGNATIONS:	All Land Use designations.
EXISTING ZONING:	All Zoning designations
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. Becky Reynolds, Principal Planner
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2009-002

BACKGROUND

At the request of the Council at its meeting of April 14, 2009, the Council initiated Development Code Amendment No. 2009-001 to increase the expiration times for a CUP/SUP entitlement from three (3) years to a total of five (5) years and a DP entitlement from two (2) years to a total of five (5) years.

ANALYSIS

The current lapse of permits, or expiration times, for CUP/SUP and DP approvals is three (3) years for a CUP/SUP and two (2) years for a DP. Due to the current economic climate, construction of new buildings, including commercial and residential development, is very slow. Recently, the State of California implemented an automatic extension of time for approved tentative tract and parcel maps, allowing projects additional time to obtain funding and to endure the current poor economic climate. This same automatic extension was given in the mid-1990s during the last recession. The same consideration could be given by the Town for approved CUP/SUP and DP projects.

In addition to the proposed increase of the expiration time frame, applicants would still be able to apply for an Extension of Time not to exceed two (2) years. Extension of Time requests would be considered by the original review authority. This new automatic expiration process would be most effective if it were retroactive and would include all approved CUP and DP entitlements that have not expired prior to the approval of the Development Code Amendment.

As an example, if a CUP was approved on June 6, 2006, the application would expire in three (3) years or on June 6, 2009. The automatic extension would extend the CUP application an additional two (2) years, or until June 6, 2011 (total of 5 years). This time frame would only apply if the application did not expire prior to the date of adoption of the Development Code Amendment, which may occur in July 2009. The applicant has the ability to also apply for an Extension of Time, not to exceed two (2) years, pursuant to current Code requirements.

In order for the Town to preserve development applications that are set to expire and that cannot be processed presently due to prevailing adverse economic conditions, it is necessary that this take immediate effect. Staff recommends the following language to be included into Subsections of the Development Code:

9.16.100 Lapse of Permits/Expiration (*Amended Ord. 309*)

- A.** A Major/Minor Conditional Use Permit shall lapse and become void three (3) years following the date on which the use permit was approved, unless:
 - 1. A building permit is issued and construction is commenced and diligently pursued; or
 - 2. A certificate of occupancy is issued; or
If no certificate of occupancy is required, the site is occupied in accordance with the approved Major/Minor Conditional Use Permit.
- B.** A Major/Minor Conditional Use Permit shall expire if one of the following occurs:
 - 1. The use, business, or service for which the Major/Minor Conditional Use Permit was issued terminates or ceases operation for a continuous period of time in excess of one (1) year; or
 - 2. The operation is discontinued or ceased because of destruction or damage by acts of God or by malicious acts, and repair of the damaged facility has not commenced within two (2) years of the date of the destructive act.

C. Automatic Extension of a Major/Minor Conditional Use Permit or Special Use Permit. The Community Development Director may grant an automatic Extension of Time to an approved Conditional/Special Use Permit, as provided by Section 9.16.100 (C). The Director shall ensure that the CUP/SUP complies with all current Development Code provisions.

1. The use permit shall be extended beyond the applicable expiration date to twenty-four (24) months, as specified, for any Major/Minor Conditional Use Permit or Special Use Permit, generally, that has not expired as of the date of adding these provisions of July 9, 2009. This extension is in addition to any other extension of the expiration date provided for in this Chapter.

2. The new automatic expiration includes all approved CUP entitlements that have not expired prior to the adoption of the Development Code Amendment of July 9, 2009, for a period or periods not to exceed a total of five (5) years.

9.17.110 Extension of Time

1. The original review authority (Planning Division, Director or Commission) may, upon an application being filed sixty (60) days prior to expiration and for good cause, grant a time extension not to exceed two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Planning Division, Director, Commission or Council when appropriate, shall ensure that the previously approved project is consistent with all current Development Code provisions and that the findings for approval of a Development in compliance with Section 9.17.080, *Required Findings*, of this Chapter, can be made. The Community Development Director may grant an automatic Extension of Time to an approved Development Permit as provided by in 9.17.110 (2) below.

2. Automatic Extension of a Development Permit

a. The Development Permit shall be extended beyond the applicable expiration date to thirty-six (36) months, as specified, for any Development Permit, generally, that has not expired as of the date of adding these provisions of July 9, 2009. This extension is in addition to any other extension of the expiration date provided for in this Chapter.

b. The new automatic expiration includes all approved DP entitlements that have not expired prior to the adoption of the Development Code Amendment of July 9, 2009, for a period or periods not to exceed a total of five (5) years.

The attached Planning Commission Resolution 2009-002, provides all necessary modifications to the Development Code to increase the expiration time frame, for CUP/SUPs and DPs.

REQUIRED 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. As presented within past staff reports, the required Findings are listed below, along with a comment addressing each, for Commission consideration. If the Commission concurs with these comments, it may be adopted and forwarded to the Council for its consideration of the Development Code Amendment. If the Commission wishes modifications to the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included in the information forwarded to the Council for consideration.

Required "Findings":

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

Comment: The General Plan provides the basic framework for land development within the Town of Apple Valley, with the Development Code setting the specific standards and criteria to fulfill the General Plan's Goals and Policies. The proposed Code Amendment shall establish increased expiration times for a CUP from three (3) years to a total of five (5) years and a DP from two (2) years to a total of five (5) years. The changes proposed to the Development Code, in establishing increased expiration times will allow for CUP/SUP and DPs the additional time for applicants to obtain funding and to progress during this adverse economic climate; thereby, protecting the property values and providing an improved living environment for Apple Valley residents.

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

Comment: Amending the Code as proposed under Amendment No. 2009-001 will amend the Town's Development Code by establishing increased expiration times for a CUP from three (3) years to a total of five (5) years and a DP from two (2) years to a total of five (5) years. These changes are minor in nature and shall have minimal to no impacts upon individual sites, surrounding properties or the community as a whole. Thus, the amendment proposed shall result in a change to the Code that addresses the community's living environment while providing for the health, safety and general welfare of the citizens of the Town of Apple Valley.

NOTICING

Development Code Amendment No. 2009-001 was advertised as a public hearing in the Apple Valley News newspaper on April 24, 2009 as required under Development Code Section 9.13.030 "Notice of Public Hearings".

ENVIRONMENTAL REVIEW

Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. As with the proposed amendment that shall only result in a minor change to the Code, where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2009-002, forwarding a recommendation that the Town Council amend Chapters 9.16 "Conditional and Special Use Permits" and 9.17 "Development Permits" of the Development Code as it relates to providing administrative authority to approve automatic extensions of time for Conditional/Special Use Permits and Development Permits.

Prepared By:

Becky Reynolds
Principal Planner

Attachments:

Draft Planning Commission Resolution No. 2009-002

PLANNING COMMISSION RESOLUTION No. 2009-002

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL FIND THAT DEVELOPMENT CODE AMENDMENT NO. 2009-001 IS EXEMPT FROM ENVIRONMENTAL REVIEW AND AMEND TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING CHAPTERS 9.16 "CONDITIONAL AND SPECIAL USE PERMITS" AND 9.17 "DEVELOPMENT PERMITS" OF THE DEVELOPMENT CODE AS IT RELATES TO PROVIDING ADMINISTRATIVE AUTHORITY TO APPROVE EXTENSIONS OF TIME FOR CONDITIONAL/SPECIAL USE PERMITS AND DEVELOPMENT PERMITS.

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

WHEREAS, Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

WHEREAS, specific changes are proposed to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Chapters 9.16 "Conditional and Special Use Permits" and 9.17 "Development Permits" of the Development Code as it relates to providing administrative authority to approve extensions of time for Conditional/Special Use Permits and Development Permits; and

WHEREAS, on April 24, 2009, Development Code Amendment No. 2009-001 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is EXEMPT from further CEQA review; and

WHEREAS, on May 6, 2009, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2009-001, receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2009-001 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. 2009-001 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. 2009-001 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Add paragraph C to Subsection 9.16.100 of Chapter 9.16 Conditional Use Permit and Special Use Permits of Title 9 "Development Code" as it relates to providing administrative authority to approve automatic extensions of time for Conditional/Special Use Permits of the Town of Apple Valley Development Code to read as follows:

9.16.100 Lapse of Permits/Expiration (*Amended Ord. 309*)

- A.** A Major/Minor Conditional Use Permit shall lapse and become void three (3) years following the date on which the use permit was approved, unless:
1. A building permit is issued and construction is commenced and diligently pursued; or
 2. A certificate of occupancy is issued; or
 3. If no certificate of occupancy is required, the site is occupied in accordance with the approved Major/Minor Conditional Use Permit.
- B.** A Major/Minor Conditional Use Permit shall expire if one of the following occurs:
1. The use, business, or service for which the Major/Minor Conditional Use Permit was issued terminates or ceases operation for a continuous period of time in excess of one (1) year; or
 2. The operation is discontinued or ceased because of destruction or damage by acts of God or by malicious acts, and repair of the damaged facility has not commenced within two (2) years of the date of the destructive act.
- C.** Automatic Extension of a Major/Minor Conditional Use Permit or Special Use Permit. The Community Development Director may grant an automatic Extension of Time to an approved Conditional/Special Use Permit, as provided by this Section. The Director shall ensure that the CUP/SUP complies with all current Development Code provisions.
1. The use permit shall be extended beyond the applicable expiration date to twenty-four (24) months, as specified, for any Major/Minor Conditional Use Permit or Special Use Permit, generally, that has not expired as of the date of adding these provisions of July 9, 2009. This extension is in addition to any other extension of the expiration date provided for in this Chapter.
 2. The new automatic expiration includes all approved CUP entitlements that have not expired prior to the adoption of the Development Code Amendment of July 9, 2009 for a period or periods not to exceed a total of five (5) years.

Section 4. Amend Section 9.17.110 and add paragraph 2 to Subsection 9.17.110 of Chapter 9.17 Development Permits of Title 9 “Development Code” as it relates to providing administrative authority to approve automatic extensions of time for “Development Permits” of the Town of Apple Valley Development Code to read as follows:

9.17.110 Extension of Time

1. The original review authority (Planning Division, Director or Commission) may, upon an application being filed sixty (60) days prior to expiration and for good cause, grant a time extension not to exceed two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Planning Division, Director, Commission or Council when appropriate, shall ensure that the previously approved project is consistent with all current Development Code provisions and that the findings for approval of a Development in compliance with Section 9.17.080, *Required Findings*, of this Chapter, can be made. The Community Development Director may grant an automatic Extension of Time to an approved Development Permit as provided by in 9.17.110 (2) below.
2. Automatic Extension of a Development Permit
 - a. The Development Permit shall be extended beyond the applicable expiration date to thirty-six (36) months, as specified, for any Development Permit, generally, that has not expired as of the date of adding these provisions of July 9, 2009. This extension is in addition to any other extension of the expiration date provided for in this Chapter.
 - b. The new automatic expiration includes all approved DP entitlements that have not expired prior to the adoption of the Development Code Amendment of July 9, 2009.
 - c. The developer/applicant may file with the Town of Apple Valley, prior to the expiration of the approved Development Permit, an application to extend the time, at which, the application will expire for a period or periods not to exceed a total of five (5) years.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 6th day of May, 2009.

Bruce Kallen, Chairman

ATTEST:

I, Patty Hevle, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing Planning Commission Resolution No. 2009-002 was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 6th day of May, 2009, by the following vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Patty Hevle, Planning Commission Secretary

ORDINANCE NO. 397

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING CHAPTERS 9.16 “CONDITIONAL AND SPECIAL USE PERMITS” AND 9.17 “DEVELOPMENT PERMITS” OF THE DEVELOPMENT CODE AS IT RELATES TO PROVIDING ADMINISTRATIVE AUTHORITY TO APPROVE EXTENSIONS OF TIME FOR CONDITIONAL/SPECIAL USE PERMITS AND DEVELOPMENT PERMITS.

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

Section 1. Recitals.

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

(ii) Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

(iii) Specific changes to Title 9 “Development Code” of the Town of Apple Valley Municipal Code include amending Chapters 9.16 “CUP/SUP” and “DP”.

(iv) On June 5, 2009, Development Code Amendment No. 2009-001 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley.

(v) The project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA; and

(vi) On May 6, 2009, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2009-001, receiving testimony from the public and adopted Planning Commission Resolution No. 2009-002 recommending adoption of this Ordinance; and

(vii) Development Code Amendment No. 2009-001 is consistent with Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and shall promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

Section 2. Findings.

(i) Find that the changes proposed by Development Code Amendment No. 2009-001 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

(ii) Find that, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from further environmental review. Section 15061(b)(3), states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

Section 3 Add subsection C “Automatic Extension of a Major/Minor Conditional Use Permit or Special Use Permit” to Section 9.16.100 “Lapse of Permits/Expiration” of Chapter 9.16 Conditional Use Permit and Special Use Permits of Title 9 “Development Code” to read as follows:

9.16.100 Lapse of Permits/Expiration (*Amended Ord. 309*)

C. Automatic Time Extension of a Major/Minor Conditional Use Permit or Special Use Permit. The Community Development Director may grant an automatic Extension of Time to an approved Conditional/Special Use Permit, as provided by this Section. The use permit shall be extended beyond the applicable expiration date to twenty-four (24) months, as specified, for any Major/Minor Conditional Use Permit or Special Use Permit.

Section 4. Add subsection B, sequentially renumber existing text as subsection A and amend subsection A Section 9.17.110 of Chapter 9.17 Development Permits of Title 9 “Development Code” to read as follows:

9.17.110 Extension of Time

A. The original review authority (Planning Division, Director or Commission) may, upon an application being filed sixty (60) days prior to expiration and for good cause, grant a time extension not to exceed two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Planning Division, Director, Commission or Council when appropriate, shall ensure that the previously approved project is consistent with all current Development Code provisions and that the findings for approval of a Development in compliance with Section 9.17.080, *Required Findings*, of this Chapter, can be made. The Community Development Director may grant an automatic Extension of Time to an approved Development Permit as provided by in 9.17.110 (2) below.

B. Automatic Extension of a Development Permit. The Development Permit shall be extended beyond the applicable expiration date to thirty six (36) months, as specified, for any Development Permit. This extension is in addition to any other extension of the expiration date provided for in this Chapter.

Section 5. Invalidation. The amendment by this Ordinance of Title 9 “Development Code” of the Town of Apple Valley Municipal Code as previously in effect, or of any other prior

enactment, shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to such Title or other enactment while the same was in effect.

Section 6. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

Section 7. Effective Date. Ordinance No. 397 shall become effective thirty (30) days after the date of its adoption.

Section 8. Severability. If any provision of Ordinance No. 397, 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 Ordinance No. 397 are declared to be severable.

Adopted by the Town Council and signed by the Mayor and attested by the Town Clerk this ___ day of July ___, 2009.

Honorable Rick Roelle, Mayor

ATTEST:

Ms. La Vonda M-Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. Frank Robinson, Town Attorney

Mr. Frank Robinson, Town Manager