



TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** January 22, 2013

From: Jim Andersen **Item No:** 10
Code Enforcement Manager
Code Enforcement

Subject: MUNICIPAL CODE AMENDMENT OF TITLE 6 TO ALLOW
TEMPORARY USE OF TRASH BINS ON SINGLE FAMILY
RESIDENTIAL PROPERTIES

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

RECOMMENDED ACTION:

That the Town Council

1. Find that the proposed adoption of Ordinance No. 446 is not subject to and is Exempt from CEQA, based upon findings under CEQA Guidelines, Section 15061 Sub (b)(3) that can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment.
2. Move to waive the reading of Ordinance No. 446 in its entirety and read by title only.
3. Move to Introduce Ordinance No. 446 amending Chapter 6.20.160 Placement of Trash Bins Screened.
4. Direct Staff to File a Notice of Exemption.

SUMMARY:

Trash bins (dumpsters) on single family residential properties are a visual blight for the Town, diminishing property values and have been a challenge for staff to address for many years. The primary concern is trash bins are left in the Town's right of way permanently rather than being moved and stored on the property in accordance with the Town's Municipal Code. In many cases this is because there are no paved surfaces on which to push the bin from the front of the house to the right of way for servicing. In addition to the trash bins being a visual blight issue lowering neighborhood property values, they create a potential hazard to vehicles.

FISCAL IMPACT:

None

BACKGROUND:

In 2006 Code Enforcement conducted a Town wide sweep for trash bins being left out in the right of way. During that year of heavy enforcement over 900 code enforcement cases were opened for non compliance of moving the trash bin to and from the right of way. During that process, in an effort to help residents come into compliance, the Town Council modified the Municipal Code section that covers storage of trash bins making it easier for residents to store the bin. The previous code section required the bin to be stored in the rear yard behind a fence and out of sight from the public right of way. The Town Council modified the code so a bin could be stored up against the front yard setback area such as a fence or the front of the garage. Modifying the code did have a moderately successful impact on compliance. More residents who had paved driveways were able to comply with the code.

Since 2006 enforcement has continued but with the economic downturn, the influx of vacant foreclosed properties, and staffing shortages, trash bins have not been the priority for code enforcement. In late 2012 staff began noticing a resurgence of bins being left in the Town's right of way.

In August 2012, code enforcement staff once again conducted a sweep for trash bins being left in the right of way. In a four month time frame nearly 400 cases were opened for bins being left in the right of way. Of those cases, over 50% resulted in the bin being exchanged for trash carts either voluntarily by the property owner or removed involuntarily at the direction of code enforcement.

Many residents have concluded they cannot comply with the code to move the bin due to the lack of a paved surface and many residents with a paved driveway have stated the bins are too heavy to move when loaded. In these cases the trash bins are removed and replaced with trash carts.

Residents who generate too much trash for a single cart/barrel can have two carts and they will still save approximately \$10 per month (\$20 per billing cycle) compared to the cost of one dumpster. If residents elect to only have one cart, the savings will be even greater. Many people who use a dumpster stop recycling which can fill up the dumpster and give the impression the trash is filling up the dumpster. Recycle barrels are free and residents may have up to three.

Another added benefit to this code change is the Town will see an increase in the recycling diversion rate.

Suggested changes to the Municipal Code section are indicated by the following:

Additions are underlined.

~~Deletions are with Strikethrough~~

ORDINANCE NO. 446

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING CHAPTER 6.20.160 PLACEMENT OF TRASH BINS SCREENED; OF THE APPLE ALLEY MUNICIPAL CODE

NOW, THEREFORE THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES ORDAIN AS FOLLOWS:

Section 1. Section 6.20.160 of Title 6 of the Town of Apple Valley Municipal Code is hereby amended to read as follows:

6.20.160 Placement of trash bins; screened.

A. All trash bins and enclosures shall be located out of easement areas, public rights of way, and the clear sight triangle.

B. Trash **bins** and enclosures shall not **be** located in a manner that requires the waste handier to park perpendicular to the roadway while emptying the bins.

C. All trash bin and enclosure locations must be approved and built to Town standards.

D. Every person utilizing bin service shall sign an agreement stating they will move the bin to and from the right of way per section 6.20.150. Single family residential properties shall store the bin in accordance with section 6.20.160 J(1)(a), and acknowledge that failure to move and store the bin in conformance with this code will result in the bin being removed from the property. a liability waiver form.

E. Paved access shall not be required. However, when the bin cannot be serviced because of inadequate access, the bin may be replaced with carts or paving may be required.

F. Failure to comply with the provisions of this ordinance shall result in the removal of the bin and placement of carts at a minimum ratio of one green trash cart and one blue commingled recycle cart per residential unit.

G. In the event that a property has adequate space and access, a bin may be left unenclosed and placed behind the structure where it is not visible from the frontage street.

H. Commercial/Industrial Use.

1. Existing commercial or industrial use property shall be evaluated with each tenant improvement application to determine if an intensification of use is to occur. Upon the determination of an intensified and/or expanded use, then a masonry block enclosure will be required to be installed to the Town standards prior to the issuance of a Certificate of Occupancy.

2. In the event there is inadequate land area behind the structure or paved access does not exist for the placement of bins and/or enclosures behind the setbacks, approval may be applied for to place a bin enclosure within the required setback.

I. Multiple family residential use.

1. All existing multiple family residential properties shall be required to enclose bins per Town standards.

2. Gates shall not be required on enclosures that are constructed perpendicular to the roadway.

3. In the event there is inadequate land area behind the structure or paved access does not exist for the placement of bins and/or enclosures behind the setbacks, approval may be applied for to place a bin enclosure within the setback.

4. As an alternative to property constructed and located bin enclosures, multiple family residential property may use carts provided by the waste hauler at a minimum ratio of one green trash cart and one blue commingled recycle cart per residential unit. The Town Manager or his designee may, upon petition by the property owner, consider alternative numbers of the blue recycling carts.

5. For multiple family residential developments, annual inspections of compliance will occur at the time of the Property Maintenance Inspection conducted by the Town.

J. Temporary Trash Bin for Single Family Residential Use.

1. Single family residential use properties utilizing bin/dumpster service shall be required to maintain the bin in compliance with this code. A bin may be allowed for temporary use on any single family residential property with less than 2 ½ acres for a maximum time period of eight (8) weeks within one calendar year. Temporary bin service may be utilized in one week increments up to 8 weeks at one time. Regular trash cart/barrel service will continue at the normal rate while a temporary bin is being used.

Regular bin/dumpster service in lieu of trash carts/barrels is not permitted on single family residential properties, with the following exceptions:

- Single family residential properties with 2 ½ acres or more may use a trash bin in lieu of carts.
- Properties under construction or remodeling with an active permit and where a bin is necessary may use a bin in lieu of carts.

The bin shall not be stored on the frontage street or directly in front of the residence, except as allowed by paragraph (c) below: **(Amended per Ordinance 334, 2/13/07)**

a. Single family residential properties less than two and one-half acres shall be required to locate the bin in accordance with one of the following:

- (1) The bin may be located behind the residence.
- (2) The bin may be located against the residence wall or a garage wall;
- (3) The bin may be located so that it abuts the front setback.

b. Single family residential properties two and one-half acres or more may place the bin, with an enclosure, in front of the residence and in compliance with this code.

c. For purpose of this section, a legal nonconforming use is one which lawfully existed prior to the effective date of this sub-paragraph c. The continuance of the legal nonconforming use will be allowed for any single family residence with an existing enclosure constructed prior to February 26, 1998. If a legal nonconforming use is discontinued for thirty (30) consecutive days or longer, it shall lose its legal nonconforming status hereunder.

2. Single family residential use properties that locate the bin behind the structure shall move the bin to the front of the property on collection day and replace it behind the structure after it is emptied.

3. Nothing in this section shall be construed to relieve bin service customers from required recycling using the blue recycling barrels in accordance with Section 6.20.015 (c) of this chapter.

Section 2. Except as expressly amended and repealed hereby, all other provisions of Title 6 of the Town of Apple Valley Municipal Code shall remain in effect.

Section 3. Invalidation. The amendment by this ordinance of Chapter 6.20.160 of the Town of Apple Valley Municipal Code as previously in effect shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to the Chapter while the same was in effect.

Section 4. Effective Date. This ordinance shall become effective thirty days from and after its adoption.

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.

APPROVED and **ADOPTED** by the Town Council and signed by the Mayor and attested by the Town Clerk this 12TH day of March, 2013.

Curt Emick, Mayor

ATTEST:

La Vonda Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

John Brown, Town Attorney

Frank W. Robinson, Town Manager