



TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** September 10, 2013

From: Parissh Knox,
Deputy Town Attorney
Best, Best & Krieger **Item No:** 6

Subject: ADOPT ORDINANCE NO. 451 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING DEVELOPMENT CODE SECTION 9.29.160 FOR COMPLIANCE WITH FEDERAL AND STATE FAIR HOUSING LAWS (DEVELOPMENT CODE AMENDMENT NO. 2013-004)

Applicant: Town of Apple Valley

Location: Town-wide

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

RECOMMENDED ACTION:

That the Town Council adopt Ordinance No. 451

SUMMARY:

At its August 13, 2013 meeting, the Town Council reviewed and introduced Ordinance No. 451, amending Development Code Section 9.29.160 for compliance with Federal and State Fair Housing laws (Development Code Amendment No. 2013-004). As part of the requirements to adopt any new Ordinance, Ordinance No. 451 has been scheduled for adoption at the September 10, 2013 Town Council meeting.

FISCAL IMPACT:

Not Applicable

ATTACHMENT:

Ordinance No. 451

ORDINANCE NO. 451

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING DEVELOPMENT CODE SECTION 9.29.160 FOR COMPLIANCE WITH FEDERAL AND STATE FAIR HOUSING LAWS

WHEREAS, the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act (“Acts”) prohibit discrimination in housing against individuals with disabilities and require that cities take affirmative action to eliminate regulations, policies, practices, and procedures that deny housing opportunities to individuals with disabilities; and

WHEREAS, the Acts require that cities provide individuals with disabilities, their representatives, or developers of housing for people with disabilities flexibility in the application of land use and zoning regulations, policies, practices, and procedures; and

WHEREAS, the Attorney General of the State of California has recommended that cities adopt reasonable accommodation ordinances to provide flexibility in the application of zoning and land use regulations, policies, practices, and procedures; and

WHEREAS, the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) under California Code of Regulations, title 14, section 15061(b)(3) because it does not have the potential for causing a significant effect on the environment; and

WHEREAS, the Town Council has previously adopted a reasonable accommodation ordinance as set forth in Development Code Section 9.29.190; and

WHEREAS, the Town of Apple Valley Planning Commission conducted a duly noticed public hearing for Development Code Amendment No. 2013-004 and adopted Planning Commission Resolution No. 2013-006 recommending that the Town Council adopt the proposed Code Amendment.

NOW, THEREFORE, the Town Council of the Town of Apple Valley hereby recommends as follows:

SECTION 1. The definition of “group home” in Development Code § 9.29.160 B. of the Apple Valley Development Code is hereby amended to read as follows:

Group Homes – means any residential structure or unit, whether operated by an individual for profit or by a nonprofit entity, which is not licensed by the State of California. This definition shall not include any person with a disability, a representative of any person with a disability, or a developer or provider of housing for one or more people with a disability that is eligible to receive and has requested a reasonable accommodation as set forth in Development Code § 9.29.190.

SECTION 2. Section 9.29.160 D. of the Apple Valley Development Code is hereby amended to read as follows:

A Conditional Use Permit shall be required for the new establishment of any type of land use permitted below:

- (1) Group homes licensed by the State of California that were established without local permit approval prior to the effective date of this Ordinance (May 8, 2007).

- (2) Group homes licensed by the State of California that were established without local permit approval upon or after the effective date of this Ordinance (May 8, 2007).
- (3) Any change in the operating conditions or facility type of existing Group Homes lawfully established prior to, or after, the effective date of this Ordinance.
- (4) Sale, transfer, or new lease agreement of a Group Home to another individual, entity, and the like.
- (5) An existing Group Home discontinued for a consecutive period of thirty (30) days is deemed abandoned and shall be required to obtain a new Conditional Use Permit.
- (6) The new construction or remodel of a Group Home to expand the square footage of a residential structure or unit.
- (7) The Conditional Use Permit granted and permitted by this section for a Group Home is non-transferable and terminates if the structure is devoted to any use other than as a residential facility for the elderly or if the structures fails to comply with the applicable health, safety, zoning and building codes.

SECTION 3. The Town Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that the activity is covered by the general rule that CEQA applies only to projects which 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 not subject to CEQA.

SECTION 4. 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 5. Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption.

SECTION 6. 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 by the Town Clerk this 10th day of September, 2013.

Curt Emick, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

John E. Brown, Town Attorney

Frank Robinson, Town Manager

CERTIFICATION

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO) ss

TOWN OF APPLE VALLEY)

I, LaVonda Pearson, Town Clerk, hereby certify that the attached is a true copy of Ordinance No. 451, introduced by the Town Council of the Town of Apple Valley, California, at regular Town Council meeting held the 27th day of August, 2013. Ordinance No. 451 was approved, passed and adopted at a regular meeting held at the 10th day of September, 2013.

WITNESS my hand and official seal of the Town of Apple Valley this 10th day of September 2013.

LaVonda Pearson, Town Clerk