



# TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council **Date:** June 10, 2014  
**From:** Lori Lamson, Assistant Town Manager **Item No:** 6  
**Subject:** ADOPT ORDINANCE NO. 461 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY PERTAINING TO PLACES OF ASSEMBLY AS AN ANCILLARY USE  
**Applicant:** Town of Apple Valley  
**T.M. Approval:** \_\_\_\_\_ **Budgeted Item:**  Yes  No  N/A

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## RECOMMENDED ACTION:

That the Town Council adopt Ordinance No. 461.

## SUMMARY:

At its May 13, 2014 meeting, the Town Council reviewed and introduced Ordinance No. 461, amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code, amending Section 9.08 "Definitions", 9.35.030-A "Permitted Uses", and 9.36 "Specific Use Regulations/ Commercial and Office Districts" by adding subsection 9.36.220 "Places of Assembly as an Ancillary Use".

## FISCAL IMPACT:

Not Applicable

## ATTACHMENTS:

Ordinance No. 461

**ORDINANCE NO. 461**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING SECTIONS 9.08, 9.35 AND 9.36 AS IT RELATES TO PLACES OF ASSEMBLY AS AN ANCILLARY USE WITHIN THE COMMERCIAL LAND USE DISTRICTS.**

**WHEREAS**, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on April 27, 2010; and

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

**WHEREAS**, Specific changes to Chapters 9.08 “Definitions”, 9.35 “Permitted Uses”, and 9.36 “Specific Use Regulations For Commercial Districts” of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to places of assembly as an ancillary use; and

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

**WHEREAS**, on April 2, 2014, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2014-001, receiving testimony from the public and adopting Planning Commission Resolution No. 2014-002 forwarding a recommendation to the Council; and

**WHEREAS**, on May 13, 2014, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearings on Development Code Amendment No. 2014-001, receiving testimony from the public.

**NOW, THEREFORE**, the Town Council of the Town of Apple Valley, State of California, does ordain as follows:

**Section 1.** Find that the changes proposed by Development Code Amendment No. 2014-001 is consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

**Section 2.** Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development Code Amendment No. 2014-001 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Amend Chapter 9.08 “Definitions” of the Development Code to amend the definition of “Ancillary Use” to read as follows:

**ANCILLARY USE**

A use that is accessory to a principal use located on the same lot or parcel.

**Section 4.** Amend Table 9.35.030-A “Permitted Uses”, subsection E “Accessory Uses” of the Code by adding subsection 6 “Places of Assembly as an Ancillary Use” to read as follows:

**Table 9.35.030-A Permitted Uses**

TYPE OF USE <sup>(1)</sup>	DISTRICT <sup>(1)</sup>					
	O-P	C-G	C-S	C-R	C-V	M-U
<i>E. Accessory Uses</i> <sup>(4)</sup>						
6. Places of assembly as an ancillary use ( <i>subject to Chapter 9.36 of this Code</i> )	SUP	SUP	SUP	SUP	SUP	SUP

**Section 5.** Amend Chapter 9.36 “Specific Use Regulations/Commercial and Office Districts” of the Code by adding subsection 9.36.220 “Places of Assembly as an Ancillary Use” to read as follows:

**9.36.220 PLACES OF ASSEMBLY AS AN ANCILLARY USE**

- A. Permit Required.** A place of assembly as an ancillary use to a school or commercial use that accommodates the assemblage of people such as a theater, auditorium, community center, banquet facility or restaurant may be allowed in any commercial district provided a Special Use Permit is approved for the use and provided the use complies with the following regulations and standards.
- B. General Standards** The following general standards shall apply:
  1. The place of assembly as an ancillary use is permitted provided the primary use is a school or commercial service facility that accommodates the assemblage of people such as a theater, auditorium, community center, banquet facility or restaurant.
  2. The use may only operate during off-peak hours of the primary use or not more than one (1) day of the week for a commercial service facility.
  3. The site shall have sufficient on-site parking to accommodate the ancillary use. The primary and ancillary use may not operate concurrently unless parking is provided for both uses in accordance with the Off-Street Parking Regulations.
  4. The site must have a valid certificate of occupancy to allow the assemblage of people.
  5. The site shall have paved access.
  6. The use shall be conducted indoors and in a manner that is in compliance with Chapter 9.73 *Noise Control*.
- C. Compatibility.** The ancillary use shall be located within the existing site to minimize adverse impacts upon surrounding uses and function of the primary use.
- D. Other Conditions.** Additional or different conditions or restrictions, including but not limited to, restrictions on intensity, seating capacity, parking, hours of operation may be placed on any place of assembly as an ancillary use to meet specific concerns.

**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. This Ordinance shall become effective thirty (30) days after the date of its adoption.

**Section 8.** 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 10th day of June, 2014.

**ATTEST:**

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Art Bishop, Mayor

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La Vonda M. Pearson, Town Clerk

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

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John Brown, Town Attorney

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Frank Robinson, Town Manager