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TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

- AGENDA DATE:** August 20, 2014
- CASE NUMBER:** Development Code Amendment No. 2014-003
- APPLICANT:** Town of Apple Valley
- PROPOSAL:** Amend the Temporary Use Permit regulations to allow for light industrial uses to occupy vacant commercial buildings greater than 50,000 square feet located within the General Commercial (C-G) for a ten (10) year period.
- LOCATION:** Town-wide
- 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.
- CASE PLANNER:** Ms. Lori Lamson, Assistant Town Manager
- RECOMMENDED:** Approve Development Code Amendment No. 2014-003 by adopting Planning Commission Resolution No. 2014-003.
- BACKGROUND:** At the June 24, 2014 Town Council meeting, the Council initiated Development Code Amendment No. 2014-003, which would expand the Temporary Use Permit regulations for the review and consideration of allowing light industrial uses in existing, vacant, large commercial buildings. This would allow these large buildings to be occupied and would also promote job growth. Temporary occupancy of these buildings would improve the overall economic strength of the area.

Expansion of the temporary use provisions within the Development Code would allow these types of businesses for a temporary period of time, such as ten (10) years. This amount of time would allow a business to recoup any initial investment made in establishing its business at these locations, but would not permanently change the commercial nature of these buildings. Ten (10) years could be enough time to allow the synergy of the commercial center to strengthen and market demands could turn making a commercial tenant more viable. Extensions to the Temporary Use Permit could also be considered by the Town at that time.

The light industrial uses contemplated, should be clean, industrial businesses and conducted solely within the building. This could include light manufacturing, warehousing and distribution. Traffic impacts of trucks and related noise would have to be evaluated on a case-by-case basis in the review of the Temporary Use Permit.

DISCUSSION:

The purpose of a Temporary Use Permit could be expanded to address the location of light industrial uses in a commercial district as described. The current Section 9.23.010 "Purpose" would need to be modified accordingly:

9.23.010 Purpose

*This Chapter is intended to establish regulations and procedures for the review of temporary accessory uses and for temporary uses related to current and ongoing construction activities that are not otherwise permitted or regulated in this Development Code. **In addition, this chapter is also intended to establish regulations and procedures for the review of temporary uses that are listed as such in the use tables of the Development Code. The review of these temporary uses is necessary in order to minimize any adverse effects on surrounding properties and infrastructure or on the public health, safety and welfare.***

The review authority would also be modified to require Planning Commission review of temporary uses that are listed as such in the use tables of the Development Code. Therefore, 9.23.020 "Authority" and Section 9.23.040 "Application" would be modified as shown below:

9.23.020 Authority

A. Review Authority. *The Director is authorized to approve, conditionally approve, modify, or deny requests **for temporary uses that pertain to current and ongoing construction activities.** The Director may establish conditions and limitations necessary to minimize detrimental effects on surrounding property and/or the general public. The Director may refer applications for a Temporary Use Permit to the Commission. **The Planning Commission shall review temporary uses listed in the General Commercial (C-G) use table of the Development Code. The Planning Commission can approve, conditionally approve, modify or deny requests for these temporary use permits.***

9.23.040 Application

*A Temporary Use Permit may be approved, conditionally approved or denied by the Director. The Director may request a site plan for the area of the proposed use as well as any other information deemed necessary to make the required findings. **Temporary Use Permits for light industrial uses within the General Commercial (C-G) zone shall require Planning Commission approval.***

The type of industrial use allowed with a Temporary Use Permit would be described in Section 9.23.030.I "Permitted Temporary Uses" below.

9.23.030 Permitted Temporary Uses

- I. Temporary Light Industrial Use in vacant commercial buildings. – Clean industrial uses including light manufacturing and distribution shall be limited to vacant commercial buildings larger than 50,000 square feet, where the business is conducted completely within an enclosed area of the building. The uses are subject to the Development Standards identified in Section 9.35.040 consistent with the "General Commercial (C-G)" uses. These uses are permitted for a maximum time of ten (10) years with the ability to obtain three (3) one year extensions.**

A time limit has to be included with the approval of a Temporary Use Permit. It would seem that ten (10) years would allow enough time for a user to achieve a return on any investment made in improvements to the existing building upon occupancy. This would also limit the industrial use from becoming permanent and allow a commercial area or center to regain synergy within a period of time. Three (3) one-year extensions to this timeline could also be considered on a case-by-case basis. The following Sections could be amended to include the following language:

9.23.060 Conditions of Approval

- A. Authority.** *In approving an application for a Temporary Use Permit, the Director or Planning Commission may impose conditions deemed necessary to ensure that the permit will be in accordance with the findings required by Section 9.23.050 above. These conditions may involve any pertinent factors affecting the operation of such temporary event or use, and may include, but shall not be limited to:*
- 1. For uses related to construction activities, a provision shall be included for a fixed period not to exceed one (1) year for a temporary use, three (3) one (1) year extensions may be granted by the Director. For light industrial uses within the General Commercial zone, the Temporary Use Permit (TUP) shall not exceed ten (10) years and three (3) one year extensions may be granted by the Director;**
 - 2. Provision for temporary parking facilities, including vehicular ingress and egress;**
 - 3. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;**
 - 4. Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;**
 - 5. Provision for sanitary and medical facilities;**
 - 6. Provision for solid, hazardous and toxic waste collections and disposal;**
 - 7. Provision for security and safety measures;**
 - 8. Regulation of signs;**
 - 9. Submission of a performance bond or other surety device, satisfactory to the Town Engineer, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time and that the property will be restored to its former condition;**

10. Temporary facilities or structures used shall be removed from the site within a reasonable time and that the property restored to its former condition;
11. Temporary Use Permits issued pursuant to this Section shall become invalid upon the cancellation of the building permit or the completion of the construction project for which the building permit and Temporary Use Permit were issued;
12. A requirement that the approval of the requested Temporary Use Permit is contingent upon compliance with applicable provision of the Town Municipal Code; and
13. Any other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accordance with the intent and purpose of this Chapter.

To clarify the types of industrial development permitted with the Temporary Use Permit provisions, Section 9.23.065 should be added to include a description. The description should also include the size of building where this provision would apply.

Section 9.23.065 – Industrial Uses

Industrial uses permitted in commercial zoning shall be limited to the types of clean and light industrial uses identified for Planned Industrial (I-P) zones in Section 9.45.030 – A and development standards in Section 9.35.040 General Commercial (C-G). All industrial uses shall be conducted within an enclosed building that is greater than 50,000 square feet in size.

Within the Commercial Section of the Development Code, the use table would need to be modified identifying that manufacturing, production and wholesale uses would require a Temporary Use Permit with a footnote that specifies buildings must be existing vacant buildings greater than 50,000 square feet in size.

Table 9.35.030-A Permitted Uses

TYPE OF USE ⁽¹⁾	DISTRICT ⁽¹⁾					
	O-P	C-G	C-S	C-R	C-V	M-U
F. Manufacturing/Production/Wholesale Uses⁽⁴⁾						
1. All uses in Table 9.45.030-A (Sections A-G) where conducted within a completely enclosed building, except for accessory outdoor storage ⁽⁶⁾		TUP	P			

⁽⁶⁾ Only includes existing vacant buildings greater than 50,000 square feet in floor area and would be subject to the Temporary Use Permit regulations identified in Chapter 9.23 “Temporary Use Permits”.

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. For Commission consideration, the required Findings are listed below, along with a comment addressing each. If the Commission concurs with these comments, it may be adopt and forward its

recommendation to the Council for consideration of the Development Code Amendment. If the Commission wishes to modify the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included into the information forwarded to the Council for consideration.

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 allows for clean industrial uses within the enclosure of an existing commercially zoned building greater than 50,000 square feet for a temporary period of time. The change proposed to the Development Code is consistent with the General Plan and provides a community service, while still protecting the property values and providing an improved living environment for all 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: The proposed Development Code Amendment will amend the Development Code requirements to allow clean industrial uses within the enclosure of an existing commercially zoned building greater than 50,000 square feet for a temporary period of time. With the proposed standards, potential impacts on adjacent properties will be minimized. Therefore, the Amendment will not be detrimental to the health, safety or general welfare of the citizens or visitors of the Town of Apple Valley.

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.

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2014-004, forwarding a recommendation that the Town Council amend Title 9 "Development Code" of the Town of Apple Valley Municipal Code as outlined within the staff report.

Prepared By:

Lori Lamson, Assistant Town Manager

ATTACHMENTS:

1. Planning Commission Resolution No. 2014-004
2. Chapter 9.23 Temporary Uses

PLANNING COMMISSION RESOLUTION NO. 2014-004

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2014-003 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING CHAPTERS 9.23 and 9.35 AS IT RELATES TO ALLOWING LIGHT INDUSTRIAL USES IN VACANT COMMERCIAL BUILDINGS GREATER THAN 50,000 SQUARE FEET IN THE GENERAL COMMERCIAL (C-G) ZONE.

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 Chapter 9.23 “Temporary Use Permit” of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to the regulations to allow light industrial uses in vacant commercial buildings within the General Commercial (C-G) zone; and

WHEREAS, Specific changes to Table 9.35.030-A “Permitted Uses”, of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to “Manufacturing/Production/Wholesale” uses in the C-G zone ; and

WHEREAS, On August 8, 2014, Development Code Amendment No. 2014-003 was duly noticed in the Apple valley News, a newspaper of general circulation within the Town of Apple Valley; 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 August 20, 2014, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2014-003, receiving testimony from the public and adopted Planning Commission Resolution No. 2014-004 recommending adoption of this Ordinance; and

WHEREAS, Development Code Amendment No. 2014-003 is consistent with 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 a the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, finds and determines 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. 2014-003 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. 2014-004 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend Section 9.23.010 "Purpose" of the Development Code to read as follows:

9.23.010 Purpose

This Chapter is intended to establish regulations and procedures for the review of temporary accessory uses and for temporary uses related to current and ongoing construction activities that are not otherwise permitted or regulated in this Development Code. In addition, this chapter is also intended to establish regulations and procedures for the review of temporary uses that are listed as such in the use tables of the Development Code. The review of these temporary uses is necessary in order to minimize any adverse effects on surrounding properties and infrastructure or on the public health, safety and welfare.

Section 4. Amend Section 9.23.020 "Authority" of the Development Code to read as follows:

9.23.020 Authority

A. Review Authority. *The Director is authorized to approve, conditionally approve, modify, or deny requests for temporary uses that pertain to current and ongoing construction activities. The Director may establish conditions and limitations necessary to minimize detrimental effects on surrounding property and/or the general public. The Director may refer applications for a Temporary Use Permit to the Commission. The Planning Commission shall review temporary uses listed in the General Commercial (C-G) use table of the Development Code. The Planning Commission can approve, conditionally approve, modify or deny requests for these temporary use permits.*

Section 5. Amend Section 9.23.040 "Application" of the Development Code to read as follows:

9.23.040 Application

A Temporary Use Permit may be approved, conditionally approved or denied by the Director. The Director may request a site plan for the area of the proposed use as well as any other information deemed necessary to make the required findings. Temporary Use Permits for light industrial uses within the General Commercial (C-G) zone shall require Planning Commission approval.

Section 6. Amend paragraph “I” of Section 9.23.030 of the Development Code to read as follows:

9.23.030 Permitted Temporary Uses

- I. **Temporary Light Industrial Use in vacant commercial buildings.** – Clean industrial uses including light manufacturing and distribution shall be limited to vacant commercial buildings larger than 50,000 square feet, where the business is conducted completely within an enclosed area of the building. The uses are subject to the Development Standards identified in Section 9.35.040 consistent with the “General Commercial C-G” uses. These uses are permitted for a maximum time of ten (10) years with the ability to obtain three (3) one year extensions.

Section 7. Amend paragraph “1” of subsection “A” “Authority” of Section 9.23.060 “Conditions of Approval” to read as follows:

9.23.060 Conditions of Approval

- A. **Authority.** In approving an application for a Temporary Use Permit, the Director or Planning Commission may impose conditions deemed necessary to ensure that the permit will be in accordance with the findings required by Section 9.23.050 above. These conditions may involve any pertinent factors affecting the operation of such temporary event or use, and may include, but shall not be limited to:
 1. **For uses related to construction activities, a provision shall be included** for a fixed period not to exceed one (1) year for a temporary use, three (3) one (1) year extensions may be granted by the Director. **For light industrial uses within the General Commercial zone, the Temporary Use Permit (TUP) shall not exceed ten (10) years and three (3) one year extensions may be granted by the Director;**

Section 8. Add Section 9.23.065 “Industrial Uses” to read as the following:

Section 9.23.065 – Industrial Uses

Industrial uses permitted in commercial zoning shall be limited to the types of clean and light industrial uses identified for Planned Industrial (I-P) zones in Section 9.45.030 – A and development standards in Section 9.35.040 General Commercial (C-G). All industrial uses shall be conducted within an enclosed building that is greater than 50,000 square feet in size.

Section 9. Amend subsection “F” “Manufacturing/Production/Wholesale Uses” of Table 9.35.030-A “Permitted Uses”, of the Code and add footnote (6) to Table 9.35.030-A to read as follows and the use shall be conducted solely within the building and outside storage shall not be permitted:

Table 9.35.030-A Permitted Uses

TYPE OF USE ⁽¹⁾	DISTRICT ⁽¹⁾					
	O-P	C-G	C-S	C-R	C-V	M-U
F. Manufacturing/Production/Wholesale Uses⁽⁴⁾						
1. All uses in Table 9.45.030-A (Sections A-G) where conducted within a completely enclosed building, except for accessory outdoor storage ⁽⁶⁾		TUP	P			

⁽⁶⁾ Only includes existing vacant buildings greater than 50,000 square feet in floor area and would be subject to the TUP regulations identified in Chapter 9.23 "Temporary Use Permits".

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 20th day of August 2014.

 Vice-Chairman Doug Qualls

ATTEST:

I, Debra Thomas, 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 20th day of August 2014 by the following vote, to-wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

 Ms. Debra Thomas, Planning Commission Secretary

CHAPTER 9.23 TEMPORARY USE PERMITS

SECTIONS:

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9.23.010 PURPOSE

This Chapter is intended to establish regulations and procedures for the review of temporary accessory uses and for temporary uses related to current and ongoing construction activities that are not otherwise permitted or regulated in this Development Code in order to minimize any adverse effects on surrounding properties and infrastructure or on the public health, safety and welfare.

9.23.020 AUTHORITY

- A. Review Authority.** The Director is authorized to approve, conditionally approve, modify, or deny requests for temporary uses. The Director may establish conditions and limitations necessary to minimize detrimental effects on surrounding property and/or the general public. The Director may refer applications for a Temporary Use Permit to the Commission.
- B. Performance Bond.** The Director may require a cash deposit or other surety to defray the costs of cleanup of a site in the event the applicant fails to leave the property in a presentable and satisfactory condition, or to guarantee removal and/or reconversion of any temporary use to a permanent use allowed in the zoning district in which it is located.

9.23.030 PERMITTED TEMPORARY USES (AMENDED ORD. NOS. 251, 273)

An application for a Temporary Use Permit shall be required for the following temporary uses and shall be subject to conditions established in this Code and any other additional conditions as may be prescribed by the Director. The following temporary uses may be permitted subject to the approval of a Temporary Use Permit:

- A. Temporary Residential Quarters.** Manufactured homes and self-contained recreational vehicles may be used for temporary residential quarters only in the following instances and for a period of time not to exceed one (1) year with one (1) year extensions; not to exceed an aggregate total of four (4) years:
1. Temporary residential quarters for individuals involved in the construction of the first permanent dwelling unit on the same parcel. Such Temporary Use Permits may be approved when construction plans are submitted to the Building and Safety Division for plan check;
 2. Temporary residential quarters for security personnel for construction projects for which construction plans have been submitted to the Building and Safety Division for plan check;
 3. Temporary residential quarters for security personnel for the short-term protection of permitted commercial, commercial agricultural, industrial or institutional use;
 4. The provisions of this Section shall not apply to public school property;
 5. Temporary Use Permits issued pursuant to this Section shall become invalid upon the cancellation of the building permit or the completion of the construction project for which the building permit and Temporary Use Permit were issued.

- B. Temporary Nonresidential Quarters.** Manufactured homes, commercial coaches, self-contained recreational vehicles, mobile office vehicles or other appropriate and approved structures may be used for temporary nonresidential quarters as an accessory use to a primary permitted use. Such temporary nonresidential quarters may be used to provide temporary office, retail, meeting, assembly, wholesale, manufacturing and/or storage space for commercial, commercial agricultural, industrial or institutional uses for a period of time not to exceed one (1) year with one (1) year extensions; not to exceed an aggregate total of four (4) years. The Director shall review the proposed use for compliance with applicable regulations, including, but not limited to, access, circulation, parking, fencing, lighting, signage, landscaping and buffering.
- C. Temporary Construction Office Quarters.** In conjunction with approved construction projects, manufactured homes, commercial coaches, self-contained recreational vehicles, mobile office vehicles or other appropriate and approved structures may be used for temporary construction office quarters for a period of time not to exceed one (1) year with one (1) year extensions; not to exceed an aggregate total of four (4) years. Temporary Use Permits issued pursuant to this Section shall become invalid upon the cancellation of the building permit or the completion of the construction project for which the building permit and Temporary Use Permit were issued.
- D. Temporary Real Estate Model Home/Sales Offices.** Dwelling units located in residential developments and subdivisions may be used for temporary real estate model home/sales office. Said model home sales office may be used only for conducting the activities necessary for the initial sale or lease of the land or structure located within the residential development or subdivision in which the model home sales office is located.
- E. Temporary On-Your-Lot Builder Model Home/Sales Office.** Single family dwelling units may be used for temporary on-your-lot builder model homes/sales offices subject to a Temporary Use Permit and the provisions of this Chapter, including the following:
- 1. Intent.** The provisions of this section are intended to regulate the use of a single family dwelling unit when used as a temporary sales office and model home for the sale of construction services to build single family residential units on vacant lots. These provisions are not intended to allow a permanent or temporary real estate office involved in real estate sales other than those involving lots sold in conjunction with the construction services being offered;
 - 2. Finding.** Prior to the issuance of a Temporary Use Permit, the reviewing authority shall find and justify that the proposed on-your-lot builder model home/sales office structure is located fronting on a roadway designated by the Streets and Roads Plan of the General Plan as either a Major Divided, Major or Secondary Road;
 - 3. Conditions.** Prior to approving the request for, or request to extend, a Temporary Use Permit for an on-your-lot builder model home/sales office, the proposed use shall comply with the following:
 - a.** The on-your-lot builder model home/sales office shall be used only for the sale of construction services to build single family residential dwelling units on vacant lots and related real estate sales. All real estate sales shall be limited to the sale of vacant lots in conjunction with the sale of construction services for such vacant lots. All real estate sales shall be an accessory and subordinate use to the primary use of construction service or sales;
 - b.** All signs and advertising displays shall comply with the provisions of Section 9.74.150 *Temporary Subdivision and Model Home Signs*, of this Code;
 - c.** Other than as allowed by this section, moveable or portable signs, off-site directional signs, plastic banners, balloons, streamers, propellers, or other similar apparatus which are primarily placed and intended to attract the attention of the general public shall not be permitted;
 - d.** An annual inspection by the Planning Division shall be made in order to ensure compliance with any conditions of approval;

- e.* A minimum of two (2) paved and two (2) other alternate parking spaces shall be provided. The Director shall approve alternate parking spaces subject to surfacing requirements and possible alternate locations (e.g., on-street parking) where it is deemed necessary and appropriate;
 - f.* The model home shall be fully landscaped with drought-tolerant xeriscape materials;
 - g.* A bond shall be required to ensure removal of any signs or flags and to reconvert, where necessary, any garage conversion;
 - h.* A Temporary Use Permit for other on-your-lot builder model home/sales office may be transferred to another party. Such a transfer shall not entitle the new owner to use such a permit for a longer time period than four (4) years from the issuance of the original permit. The Director shall be notified of any transfer of ownership;
 - i.* **Agreement to terminate Temporary Use.** Prior to the issuance of the permit for the first year and as a condition of that permit approval, the permittee shall enter into an agreement with the Town which shall be recorded in the official records of the Town by the Town Clerk. The agreement will establish the responsibility of the permittee to comply with the provisions of this Chapter. This will include acknowledgment that the permittee shall terminate the model home/sales office no later than four (4) years from the date of the initial permit and restore the structure to a use allowed by the current land use district of the subject property.
- 4. Existing Uses.** All existing on-your-lot builder model home/sales offices shall be required to obtain a Temporary Use Permit for their use. Such permits together with approved annual extensions will allow these uses to continue for an additional four (4) years from the effective date of this Development Code without penalty, provided such uses comply with the provisions and conditions established by or under the authority granted by this Chapter.
- F. Temporary earth stockpiling sites.** Earth stockpiling sites may be used in conjunction with and directly related to a valid development permit or other relevant permit. Such sites are permitted for a period of six (6) months or for the length of the related permit. Borrow sites shall be subject to approval of a Development Permit, pursuant to Chapter 9.17 *Development Permits*, of this Code.
- G. Temporary subdivision and model home signs.**
- H. Metal Storage Container(s).** Metal storage container(s) may be used in conjunction with, and directly related to, a valid construction project (except for single-family residence on one recorded lot not associated with tract development) which has an active and valid Building Permit. Such use shall be permitted only during the period of construction provided the following are met:
- 2.** That such Temporary Use Permit may only be issued (and remain valid) while a property has an active Building Permit for construction of a building on site.
 - 3.** That such construction identified under the Building Permit must be active. For purposes of this subsection only, an “active” Building Permit shall be one where no period of more than thirty (30) days has elapsed between receipt and passage of an inspection from a Town of Apple Valley Building Inspector.
 - 4.** That the location of the container(s) shall be approved as part of the Temporary Use Permit review and approval process described herein, and that such container(s) shall be placed in a location that allows existing buildings, landscaping or physical features on site (if available), to screen the container from public view as much as possible.
 - 5.** That the metal storage container(s) must be physically removed from the construction site prior to the Final Inspection (for a single family home) or issuance of a Certificate of Occupancy (for an apartment, commercial, office or industrial building).

That Failure to remove the metal storage container(s) when either the Building Permit has expired or the construction has been finalled and/or a Certificate of Occupancy has been issued, or within three days from receipt of written notice from the Town of Apple Valley that the storage container(s) does not conform to the temporary use

standards and criteria listed above, shall constitute an infraction and each day said container(s) has not been removed following the three days from receipt of notification from the Town of Apple Valley shall be considered a distinct and separate violation of the Development Code.

9.23.040 APPLICATION

A Temporary Use Permit may be approved, conditionally approved or denied by the Director. The Director may request a site plan for the area of the proposed use as well as any other information deemed necessary to make the required findings.

9.23.050 REQUIRED FINDINGS

The Director may approve, modify or conditionally approve a Temporary Use Permit application only when the following findings can be made:

- A.** The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger or otherwise constitute a risk to the public health, safety or welfare;
- B.** The proposed site is adequate in size and shape to accommodate the temporary use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the site;
- C.** The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the temporary use will or could reasonably be expected to generate; and
- D.** Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the Director.

9.23.060 CONDITIONS OF APPROVAL

- A. Authority.** In approving an application for a Temporary Use Permit, the Director may impose conditions deemed necessary to ensure that the permit will be in accordance with the findings required by Section 9.23.050 above. These conditions may involve any pertinent factors affecting the operation of such temporary event or use, and may include, but shall not be limited to:
 - 1.** Provision for a fixed period not to exceed one (1) year for a temporary use, three (3) one (1) year extensions may be granted by the Director;
 - 2.** Provision for temporary parking facilities, including vehicular ingress and egress;
 - 3.** Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;
 - 4.** Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
 - 5.** Provision for sanitary and medical facilities;
 - 6.** Provision for solid, hazardous and toxic waste collections and disposal;
 - 7.** Provision for security and safety measures;
 - 8.** Regulation of signs;
 - 9.** Submission of a performance bond or other surety device, satisfactory to the Town Engineer, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time and that the property will be restored to its former condition;
 - 10.** Temporary facilities or structures used shall be removed from the site within a reasonable time and that the property restored to its former condition;
 - 11.** Temporary Use Permits issued pursuant to this Section shall become invalid upon the cancellation of the building permit or the completion of the construction project for which the building permit and Temporary Use Permit were issued;
 - 12.** A requirement that the approval of the requested Temporary Use Permit is contingent upon compliance with applicable provision of the Town Municipal Code; and

13. Any other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accordance with the intent and purpose of this Chapter.

9.23.070 CONDITION OF SITE FOLLOWING TEMPORARY USE

Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, in compliance with the provisions of this Development Code.

9.23.080 REVOCATION

- A. **Required Findings.** A Temporary Use Permit may be revoked or modified by the Director if any one (1) of the following findings can be made:
 1. That the circumstances have changed so that one (1) or more of the findings of fact contained in Section 9.23.050 of this Chapter can no longer be made;
 2. That the Temporary Use Permit was obtained by misrepresentation or fraud;
 3. That one (1) or more of the conditions of the Temporary Use Permit have not been met; or
 4. That the use is in violation of any applicable statute, ordinance, law, or regulation.

9.23.090 USE OF PROPERTY BEFORE FINAL DECISION

Uses requiring a Temporary Use Permit shall not commence, and building permits shall not be issued for any structure accompanying such use until such use has received a Temporary Use Permit in compliance with the provisions of this Chapter. Permits shall not be issued unless and until the applicable use and/or structure has been approved and that approval has become final.