



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** May 08, 2018

From: Pam Cupp, Associate Planner **Item No:** 6
Community Development Department

Subject: ADOPT ORDINANCE NO. 502, 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 MODIFYING CHAPTER 9.08 "DEFINITIONS", CHAPTER 9.28 "RESIDENTIAL DISTRICTS" AND CHAPTER 9.29 "SPECIFIC USE REGULATIONS FOR RESIDENTIAL DISTRICTS" AS IT PERTAINS TO ACCESSORY DWELLING UNITS AND OTHER RESIDENTIAL HABITABLE ACCESSORY STRUCTURES

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

RECOMMENDED ACTION:
Adopt Ordinance No. 502.

SUMMARY:
At its April 24, 2018 meeting, the Town Council reviewed and introduced Ordinance No. 502 which amends the Development Code by adding provision relating to accessory dwelling units and other habitable accessory structures. As a part of the requirements to adopt any new Ordinance, Ordinance No. 502 has been scheduled for adoption at the May 8, 2018 Town Council Meeting.

FISCAL IMPACT:
Not Applicable

ATTACHMENT:
Ordinance No. 502

ORDINANCE NO. 502

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 MODIFYING CHAPTER 9.08 "DEFINITIONS", CHAPTER 9.28 "RESIDENTIAL DISTRICTS" AND CHAPTER 9.29 "SPECIFIC USE REGULATIONS" AS IT PERTAINS TO ACCESSORY DWELLING UNITS AND OTHER RESIDENTIAL HABITABLE ACCESSORY STRUCTURES

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 are proposed to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by modifying Chapter 9.08 "Definitions", Chapter 9.28 "Residential Districts" and Chapter 9.29 " Specific Use Regulations" as it pertains to accessory dwelling units and other residential habitable accessory structures ; and

WHEREAS, on March 21, 2018, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2017-002, receiving testimony from the public and adopting Planning Commission Resolution No. 2018-003 forwarding a recommendation to the Council; and

WHEREAS, Development Code Amendment No. 2017-002 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; 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 24, 2018, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearings on Development Code Amendment No. 2017-002, 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. 2017-002 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. 2017-002 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” as follows:

“Accessory Dwelling Unit

An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code shall also constitute an accessory dwelling unit.

Guest Quarters

Any structure, whether attached to or detached from the main residence on a residential lot, or a lot used for residential purposes, containing living quarters for the use by temporary guests of the residents of the main residential structure on the same premises.

Habitable Floor Area

Interior residential space used for living purposes that contains heat, plumbing, and electricity. It includes foyers, hallways, bedrooms, kitchen, restrooms, closets, storage, and other common areas within a building. Habitable Floor Area does not include patio, porch, garage, carport or other accessory structures.”

Habitable Structure

A building which includes space for living, sleeping, eating or cooking. This can include bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas.”

Section 4. Amend Table 9.28.030-A “Permitted Uses” of Chapter 9.28 “Residential Districts” as follows:

Table 9.28.030-A Permitted Uses

TYPE OF USE	R-VLD	R-A	R-LD	R-E	R-E ¾	R-EQ	R-SF	R-M	MHP	M-U	PRD²
G. Accessory Uses and Structures											
1. Non-Commercial antennas and satellite dishes.	P	P	P	P	P	P	P	P	P	P	P
Commercial antennas and satellite dishes	-	-	-	-	-	-	-	-	-	CUP	-
2. Habitable/Nonhabitable accessory structures	P	P	P	P	P	P	P	P	P	P	P
3. Off campus dormitory	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP
4. Private recreational courts with exterior lighting and/or recreational fencing over six (6) feet in height	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
5. Private swimming pools and accessory equipment	P	P	P	P	P	P	P	P	P	P	P
6. Accessory Dwelling Units	P	P	P	P	P	P	P	P	P	P	P
7. Water Storage tanks less than 5,000 gallon	P	P	P	P	P	P	P	-	-	-	P
more than 5,000 gallons	CUP	CUP	CUP	CUP	CUP	CUP	CUP	-	-	-	CUP
8. Liquid, petroleum or Gas (LPG) Tanks not exceeding 200 gallons	P	P	P	P	P	P	P	P	P	P	P

Section 5. Amend Section 9.29.020 “Accessory Uses and Structures” of Chapter 9.29 “Specific Use Regulations for Residential Districts” to add the following subsections:

“G. Guest Quarters are permitted and subject to the following:

1. May be attached to or detached from the main residential structure.
2. The maximum floor area is 400 square feet.
3. There shall be no kitchen or cooking facilities.
4. Independent access to the guest quarters shall not be located on the same elevation as the access to the primary dwelling.
5. Guest quarters are for the exclusive use of the residents of the primary dwelling unit and may not be rented or otherwise used as a dwelling unit.

H. Detached habitable structures consisting of pool houses, art or music studios, or other structures intended for recreational purposes are permitted subject to the following:

1. Habitable accessory structures shall be architecturally compatible with the design of the main dwelling and shall incorporate the same architectural features, colors and materials of the primary unit.
2. There shall be no indoor kitchen or bedrooms, except as identified within this section.
3. One (1) detached habitable structure is permitted per lot.
4. An accessory dwelling unit or guest quarters may occupy a portion of the habitable structure; however, access shall not be permitted from the interior.
5. Unless permitted as an accessory dwelling unit, detached habitable structures shall not be rented or otherwise used as a dwelling unit.”

Section 6. Replace Section 9.29.120 “Second Dwelling Units” in its entirety with the following:

“9.29.120 Accessory Dwelling Units

A. Purpose. The purpose of this Section is to expand the variety of housing opportunities in the Town by implementing State Government Code (65852.2) as it pertains to accessory dwelling units. Implementation of these regulations will insure that accessory dwelling units are located in areas where services are adequate to support them and that accessory dwelling units are designed and maintained as a compatible and integral part of the Town's residential zoning districts.

B. Applicability. In compliance with the provisions of Government Code 65852.2, the provisions of this Chapter shall apply to all lots that are occupied with a single-family dwelling unit and zoned residential.

C. General Standards

1. Applications for accessory dwelling units shall be approved or disapproved ministerially pursuant to the requirements of this Section within 120 days of a determination that the application is complete, as required by Gov. Code, § 65852.2(b).
2. The parcel upon which the accessory dwelling unit is to be built shall comply with all development standards for the district in which it is located.
3. An accessory dwelling unit may only be permitted on a lot zoned for residential uses on which there is already built, or currently under construction, a single-family detached dwelling (primary dwelling).
4. No more than one (1) accessory dwelling unit shall be permitted on any parcel or lot.
5. The accessory dwelling unit shall have adequate water supply pursuant to specifications of the Uniform Plumbing Code.
6. Parcels on which an accessory dwelling unit is to be located must be connected to sewer, unless otherwise specified herein.
7. The primary dwelling, accessory dwelling unit, or both must be occupied by the property owner
8. The accessory dwelling unit may be rented separate from the primary residence but may not be sold or otherwise conveyed separate from the primary residence.
9. The rental term for an accessory dwelling unit shall not be less than thirty (30) days.
10. The accessory dwelling unit may be either attached or detached from the primary dwelling.
11. Fire sprinklers shall only be required if required for the primary residential structure.
12. At no time may the primary dwelling unit be converted to the extent that it becomes substandard in size as a single-family residence. Except that a 150 square foot maximum, efficiency unit with a partial kitchen or bathroom as authorized by California Health & Safety Code Section 17958.1, shall be permitted upon any lot containing a single-family residence and shall be considered an accessory dwelling unit.
13. *Restrictive Covenant.* Prior to the issuance of a building permit for an accessory dwelling unit, a restrictive covenant against the land, which is binding on the property owner and their successors in interest, shall be recorded with the office of the San Bernardino County Recorder, which specifies that the following:

- a. The use of the accessory dwelling unit as an independent living space may continue only if one dwelling on the lot is occupied by the property owner.
- b. The accessory dwelling unit may not be sold or otherwise conveyed separate from the primary residence.
- c. The property may only contain one (1) rented unit.

D. *Attached Accessory Dwelling Unit Development Standard*

Along with the general standards prescribed by subsection D, the following development standards apply to detached accessory dwelling units:

1. The maximum size for an attached accessory dwelling unit is thirty (30) percent of the habitable floor area of the primary dwelling, not to exceed 1,200 square feet.
2. Independent access to the accessory dwelling unit shall not be located on the same elevation as the access to the primary dwelling.
3. If existing bedrooms are converted to an accessory dwelling unit, availability of sewer may not be required, subject to the review and approval of the Building Official.

E. Detached Accessory Dwelling Units

Along with the general standards prescribed by subsection C, the following development standards apply to detached accessory dwelling units:

1. Detached accessory dwelling units are subject to all provision within Section 9.29.020 "Accessory Uses and Structures".
2. The maximum floor area of an accessory dwelling unit is fifty (50) percent of the existing habitable floor area of the primary dwelling, not to exceed 1,200 square feet.
3. An accessory dwelling unit may occupy all, or a portion, of an existing detached accessory structure meeting the architectural guidelines set forth in this chapter.
4. Sewer connection is required unless the lot is one (1)-acre or more in size and located outside of any sewer service area
5. The driveway serving the primary dwelling shall be used to serve the accessory dwelling unit whenever feasible.
6. The accessory dwelling unit may be metered separately from the main dwelling for gas, electricity and water/sewer services.
7. The accessory dwelling unit shall be architecturally compatible with the design of the main dwelling and shall match with the same colors and materials of the primary unit."

8. No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

G. Interior Accessory Dwelling Units Standards

Internal accessory dwelling units that meet all of the following requirements are subject only to the general standards prescribed by subsection C:

1. The accessory dwelling unit is contained within the existing space of the primary dwelling or accessory structure, including, but not limited to, a studio, pool house, or other similar structure.
2. The accessory dwelling has independent exterior access from the primary dwelling,
3. The accessory dwelling unit has side and rear setbacks are sufficient for fire safety.”

Section 7. 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 8. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 9. 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 8th day of May 2018.

ATTEST:

Art Bishop, Mayor

La Vonda M. Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

John Brown, Town Attorney

Douglas B. Robertson, Town Manager