



## Town Council Agenda Report

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Date: January 28, 2020 Item No. 2

To: Honorable Mayor and Town Council

Subject: SECOND READING OF ORDINANCE 525 OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, TO INCLUDE ADVISORY INFORMATION REGARDING DEVELOPMENT IMPACT FEES TO CHAPTER 9.71 “SUBDIVISION REGULATIONS”.

From: Douglas Robertson, Town Manager

Submitted by: Pam Cupp, Senior Planner  
Planning Department

Budgeted Item:  Yes  No  N/A

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### RECOMMENDED ACTION

#### Adopt Ordinance No. 525

#### SUMMARY

At its January 14, 2020 meeting, the Town Council reviewed and introduced Ordinance No. 525 that adds advisory information regarding development impact fees to the Development Code. As discussed, the following sentence has been added to the Ordinance: “Development Impact Fees shall be paid prior to the final inspection for occupancy and/or issuance of Certificate of Occupancy.”

#### FISCAL IMPACT

None

#### ATTACHMENTS

Ordinance No. 525

## ORDINANCE NO. 525

### **AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY INCORPORATING ADVISORY INFORMATION RELATING TO DEVELOPMENT IMPACT FEES TO CHAPTER 9.71 “SUBDIVISION REGULATIONS”.**

**WHEREAS**, The General Plan of the Town of Apple Valley was adopted by the Town Council on August 11, 2009; and

**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**, On May 1, 2019, the Town Council initiated a Development Code Amendment, directing staff to incorporate language relating to Development Impact Fees; 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**, On November 6, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2019-013, receiving testimony from the public and adopting Planning Commission Resolution No. 2019-017 forwarding a recommendation to the Council; and

**WHEREAS**, Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapter 9.71 “Subdivision Regulations” to incorporate advisory information relating to Development Impact Fees; and,

**WHEREAS**, Development Code Amendment No. 2019-013 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 January 3, 2020, Development Code Amendment No. 2019-013 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, On January 14, 2020, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2019-013, 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. 2019-013 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. 2019-013 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Amend the Title of Section 9.71.055 “Quimby Fees” of Chapter 9.71 “Subdivision Regulations” as follows:

“9.71.055 Development Impact Fees”

**Section 4.** Amend Paragraph A of Section 9.71.055 of Chapter 9.71 “Subdivision Regulations” as follows:

“A. **Required.** The continuing growth of the Town, combined with the continued expectation of high-quality services by persons who live and work in the Town, necessitates the recover the costs to the Town for the future construction of public infrastructure, facilities and improvements. As a condition of approval of any tentative map or development proposal, the Town shall require the payment of Development Impact Fees, as adopted by the Town Council, to fund such public improvements. Development Impact Fees shall be paid prior to the final inspection for occupancy and/or issuance of Certificate of Occupancy. Collection of Development Impact Fees is established by Government Code, Sections 66000-66003.

As a condition of approval of any tentative map, and prior to the approval of every final map, the Town shall require dedication of a portion of such land, payment of a fee in lieu thereof, or a combination of both, as set forth in this chapter, for the purpose of establishing and developing park and recreational facilities to serve the future residents of such subdivided property.

Collection of Development Impact Fees for Parks and Recreation is established by Government Code, Sections 66000-66003. These fees are collected to supplement

the cost of acquiring, developing and renovating parks and recreational areas as outlined in the Town of Apple Valley's Master Plan of Parks and Recreation Services.

The Development Impact Fee for Parks and Recreation shall be charged and paid for at the issuance of any building permit, or prior to the issuance of a Certificate of Occupancy, by all non-exempted, new development in the Town of Apple Valley consisting of Single Family or Multi-Family Residential Development.

The development impact fee for Parks and Recreation is calculated using the same formula used to establish in-lieu fees as defined in the Sub-Division Map Act, Quimby Act (66477) and is based on projected growth, fair market value per acre of land being developed and the average cost per acre to develop parks and facilities. “

**Section 5.** Amend the Paragraph F of Section 9.71.050 of Chapter 9.71 “Subdivision Regulations” as follows:

**“F. Quimby Act Exemptions (66477).**

1. The provisions of this chapter do not apply to commercial or industrial subdivisions or to condominium projects, which consist of the subdivision of airspace in an existing apartment building, which is more than five years old, when no new dwelling units are added.
2. Subdivisions containing less than five parcels, and not used for residential purposes, shall be exempt from the requirements of this chapter, provided, however, that a condition shall be placed on the approval of such parcel map that, if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years, the fee shall be required to be paid by the owner of each such parcel as a condition of the issuance of such permit.”

**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 28th day of January, 2020.

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Honorable Scott Nassif, Mayor

ATTEST:

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Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

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Mr. Thomas Rice, Town Attorney

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Mr. Douglas B. Robertson, Town Manager