



## Town Council Agenda Report

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Date: September 8, 2020 Item No. 8  
To: Honorable Mayor and Town Council  
Subject: SECOND READING OF ORDINANCE 535 OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY MODIFYING PROVISIONS RELATING TO THE LOCATION REGULATIONS FOR GASOLINE/SERVICE STATIONS AND ABOVE GROUND PETROLEUM TANKS (DCA 2020-006)  
From: Douglas Robertson, Town Manager  
Submitted by: Lori Lamson, Assistant Town Manager

Budgeted Item:  Yes  No  N/A

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### **RECOMMENDED ACTION:**

Adopt Ordinance No. 535

### **SUMMARY:**

At its August 25, 2020 meeting, the Town Council reviewed and introduced Ordinance No. 535 that amends the Development Code by modifying provisions relating to the location regulations for gasoline/service stations and above ground petroleum tanks referred to as Development Code Amendment No. 2020-006. Ordinance No. 535 has been scheduled for adoption at the September 8, 2020 Town Council Meeting.

### **Fiscal Impact:**

Not Applicable

### **Attachments:**

Ordinance No. 535

**ORDINANCE NO. 535**

**AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ADOPTING DEVELOPMENT CODE AMENDMENT NO. 2020-006 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.35 “PERMITTED USES” AND CHAPTER 9.36 “SPECIFIC USE REGULATIONS/COMMERCIAL AND OFFICE DISTRICTS”, SPECIFICALLY SECTION 9.72.190 “SERVICE (GASOLINE) STATIONS” AS IT PERTAINS TO THE LOCATION CRITERIA OF SERVICE (GASOLINE) STATIONS AND THE PLACEMENT REGULATIONS OF ABOVE GROUND PETROLEUM TANKS IN COMMERCIAL DEVELOPMENT**

**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**, 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 amending Chapter 9.35 “Permitted Uses” and Chapter 9.36 “Specific Use Regulations/Commercial and Office Districts”, as it pertains to the location criteria for service (gasoline) stations and the regulations regarding the location of above ground petroleum tanks; and,

**WHEREAS**, 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; and

**WHEREAS**, on July 15, 2020 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2020-006 receiving testimony from the public and adopted Planning Commission Resolution No. 2020-004; and

**WHEREAS**, Development Code Amendment No. 2020-006 is consistent with 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.

**WHEREAS**, on August 14, 2020, Development Code Amendment No. 2020-006 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, on August 25, 2020 the Town Council of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2020-006 receiving testimony from the public; and

**NOW, THEREFORE, BE IT RESOLVED** that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Town Council at said hearing, the Town Council of the Town of Apple Valley, California, does hereby resolve, order and determine as follows, make the following findings and take the following actions:

**Section 1.** Find that the changes proposed by Development Code Amendment No. 2020-006 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

**Section 2.** Pursuant to Section 21080.17 of the State Guidelines to Implement the California Environmental Quality Act (CEQA), this proposal is exempt because CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code; and

**Section 3.** Amend subsection C. “Minimum Development Standards” of Section 9.36.190 “Service (Gasoline) Stations by adding a new paragraph No. 1 and renumber existing 1 through 14 sequentially...

1. No more than two (2) gasoline/service stations can be located on the hard corners of an intersection of two (2) or more streets. Additional gasoline/service stations, and access thereto, must be located a minimum of 300 feet from the intersection of two (2) or more streets, if more than two (2) gasoline/service stations have already been entitled or legally built at said intersection on the hard corners. The existing entitlement must be valid and not expired.

**Section 4.** Add footnote No. 14 to subparagraph a. “Gasoline stations and/or Carwash” of Paragraph 1. “Automotive services, including motorcycles, boats, motorhomes, trailers, and campers” of Section G. “Services” of Table 9.35.030-A. “Permitted Uses” to read as follows:

TYPE OF USE <sup>(1)</sup>	DISTRICT <sup>(1)</sup>					
	O-P	C-G	C-S	C-R	C-V	M-U

**G. Services**

1. Automotive services, including motorcycles, boats, motorhomes, trailers, and campers						
a. Gasoline stations and/or Carwash <sup>14</sup>	-	SUP	SUP	SUP	SUP	SUP

*Footnote No. 14 – Refer to Section 9.36.190.C.1. for location restrictions for gasoline/service stations.*

**Section 5.** Amend subsection D. “Accessory Uses” of Section 9.36.190 “Service (Gasoline) Stations”, by adding paragraph No. 6 to read as follows:

6. Above ground liquid petroleum or natural gas tanks shall be permitted as an accessory use subject to the following:
  - a. Above ground tanks can be located in landscaped areas provided that there is a ten (10)-foot setback from ultimate right-of-way and shall be maintained in accordance with the Fire Code. Tanks shall not be located within the required clear-sight-triangle.
  - b. Three sides of the tank shall be screened with a block wall and spacing between the wall and the tank shall comply with Fire Code standards.
  - c. Tanks must be accessible to recreational vehicles, trailers and large vehicles and shall not interfere with vehicular circulation of the site or with access to required parking spaces.

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

**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 8th day of September, 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