



Town Council Agenda Report

Date: December 8, 2020 Item No. 8

To: Honorable Mayor and Town Council

Subject: SECOND READING OF ORDINANCE 540 AN AMENDMENT TO TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE MODIFYING CHAPTER 9.77 “WIRELESS TELECOMMUNICATION FACILITIES” AS IT RELATES TO GENERAL REQUIREMENTS, SETBACK AND SEPARATION DISTANCE REDUCTIONS, AND EXPANDING ON LOCATIONS WHERE TOWERS CAN BE PLACED WITH APPROVAL OF A CONDITIONAL USE PERMIT

From: Douglas Robertson, Town Manager

Submitted by: Lori Lamson, Assistant Town Manager

Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

Adopt Ordinance No. 540

SUMMARY:

At its November 10, 2020 meeting, the Town Council reviewed and introduced Ordinance No. 540 that amends the Development Code by modifying provisions relating to general requirements of locating wireless telecommunication facilities, including setbacks, separation distances and expanding locations where towers can be placed and identified as Development Code Amendment No. 2020-009. Ordinance No. 540 has been scheduled for adoption at the December 8, 2020 Town Council Meeting.

Fiscal Impact:

Not Applicable

Attachments:

Ordinance No. 540

ORDINANCE NO. 540

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ADOPTING DEVELOPMENT CODE AMENDMENT NO. 2020-009 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.77 “WIRELESS TELECOMMUNICATION FACILITIES” AS IT RELATES TO GENERAL REQUIREMENTS, SETBACK AND SEPARATION DISTANCE REDUCTIONS, AND EXPANDING ON LOCATIONS WHERE TOWERS CAN BE PLACED WITH APPROVAL OF A CONDITIONAL USE PERMIT.

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 July 14, 2020, the Town Council initiated a Development Code Amendment, directing staff to modify Chapter 9.77 “Wireless Telecommunication Facilities” to expand on locations from where wireless telecommunication towers can be permitted with a Conditional Use Permit given that towers play a critical role in transmitting emergency calls by the public and the public’s growing demand for cell phone usage.

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 9.77 “Wireless Telecommunication Facilities” as it relates to general requirements, setback and separation distance reductions, and expanding on locations where towers can be placed with approval of a conditional use permit; and

WHEREAS, it has been 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, 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; and

WHEREAS, on October 7, 2020 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2020-009 receiving testimony from the public and adopted Planning Commission Resolution No. 2020-007; and

WHEREAS, Development Code Amendment No. 2020-009 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 October 30, 2020, Development Code Amendment No. 2020-009 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, on November 4, 2020 the Town Council of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2020-009 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. 2020-009 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan, and will not be detrimental to the public health, safety or welfare of the Town or its residents.

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. 2020-001 will have a significant effect on the environment and, therefore, the Amendment is exempt from further environmental review.

Section 3. Amend Section 9.77.180, Preferred Locations, of the Town of Apple Valley Development Code to read as follows:

The Town of Apple Valley hereby establishes “Preferred Locations” for the placement of telecommunications facilities. These locations are shown upon Figure 9.77.180 “Preferred Locations” below. Additional preferred locations may be established by the Commission from time to time as needed by the community at the time of submittal of a Conditional Use Permit request for properties if such property conforms to the following:

- any public park;
- any private park, open to the public;
- any public school;
- any private school as the sole occupant of a site at least five (5) acres in size;
- any church as the sole occupant of a site at least one acre in size;
- any commercially designated property of at least one acre in size with a minimum of 5,000 square feet of developed structures on site;
- any developed industrially zoned property;
- any public or private golf courses;
- any existing public facilities such as a water tank, police or fire stations.

Telecommunications facilities placed upon or within such preferred locations shall be located in a manner so that the main structure on site is located between the facility and the main public right-of-way serving the site.

The development standards and criteria for siting Telecommunication facilities on or within a Preferred Location as defined within this Chapter 9.77 “Wireless Telecommunications Towers and Antennas” for setback and separation distances may be reduced by seventy percent (70%). This reduction may not be combined with the reductions allowed in Section 9.77.190 below for multiple users (co-location) on the same pole or within the same structure.

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

Section 4. 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 5. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 6. 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 December 2020.

Honorable Scott Nassif, Mayor

ATTEST:

Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. Thomas Rice, Town Attorney

Mr. Douglas B. Robertson, Town Manager