



## Town Council Agenda Report

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Date: January 12, 2021 Item No. 5

To: Honorable Mayor and Town Council

Subject: SECOND READING OF ORDINANCE 541 OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE AS IT RELATES TO ENTITLEMENTS, LOCATIONS, DESIGN AND OPERATING STANDARDS OF RECYCLING FACILITIES

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. 541

### SUMMARY

At its December 8, 2020 meeting, the Town Council reviewed and introduced Ordinance No. 541 that amends the Development Code as it relates to entitlements, locations, design and operating standards of recycling facilities. Ordinance 541 has been scheduled for adoption at the January 12, 2021 Town Council meeting.

### FISCAL IMPACT

None

### ATTACHMENTS:

Ordinance No. 541

## ORDINANCE NO. 541

**AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING SECTION 9.36.180 “RECYCLING FACILITIES”, TABLE 9.35.030-A “PERMITTED USES” OF CHAPTER 9.35 “COMMERCIAL AND OFFICE DISTRICTS” AND TABLE 9.45.030-A “PERMITTED USES” OF CHAPTER 9.45 “INDUSTRIAL DISTRICTS” AS IT RELATES TO ENTITLEMENTS, LOCATIONS, DESIGN AND OPERATING STANDARDS OF RECYCLING FACILITIES**

**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 April 14, 2020, the Town Council initiated a Development Code Amendment, directing staff to work with the Planning Commission to modify the development standards relating to recycling facilities;

**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 October 7, 2020, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2020-008, inviting testimony from the public and adopting Planning Commission Resolution No. 2020-006 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 modifying Section 9.36.180 “Recycling Facilities”, Table 9.35.030-A “Permitted Uses” of Chapter 9.35 “Commercial And Office Districts” and Table 9.45.030-A “Permitted Uses” of Chapter 9.45 “Industrial Districts” as it relates to entitlements, locations, design and operating standards of recycling facilities; and

**WHEREAS**, Development Code Amendment No. 2020-008 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 November 27, 2020, Development Code Amendment No. 2020-008 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, On December 8, 2020, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2020-008, receiving testimony from the public and

**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. 2020-008 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. 2020-008 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Modify Paragraph B of Development Code Section 9.36.180 “Recycling Facilities” as follows:

“B. **Applicability.** Recycling facilities shall be certified by the State of California and are subject to review in all commercial districts according to Table 9.35.030-A, Permitted Uses.”

**Section 4.** Add new paragraph C, modify the first paragraph of renumbered paragraph D and replace Subsections D1, D2 and D3 of Development Code Section 9.36.180 “Recycling Facilities” as follows:

“C. **Site Clean-up Required.** The operator and the host business of any recycling collection or processing facility shall, on a daily basis, remove any and all recyclable materials or solid wastes that have accumulated or are deposited outside the containers, bins, or enclosures intended as receptacles for these materials.

D. **Development Standards.** The review authority may relax or impose stricter standards at their discretion upon a finding that such modifications are reasonably necessary to implement the general intent of this chapter and the purposes of the Development Code. The criteria and standards for recycling facilities are as follows:

1. **Reverse Vending Machines.** Reverse vending machines located completely within a commercial or industrial building need not comply with the following criteria and standards. Such machines outside of a building shall be a permitted as an accessory use and shall comply with the following criteria:
  - a. Machines shall be established in conjunction with a commercial use or community service facility that is in compliance with this Development Code and the building and fire codes of the Town.
  - b. Only one (1) machine or group of machines shall be permitted per commercial development.
  - c. Machines shall be located within thirty (30) feet of the entrance to the commercial structure on a surfaced site and shall not obstruct pedestrian or vehicular circulation.
  - d. Machines shall be setback a minimum of 100 feet from any residential use or zoning designation.
  - e. Machines shall not occupy parking spaces required by the primary use.
  - f. Machines shall occupy no more than fifty (50) square feet of floor space per installation, including any protective enclosure, and shall be no more than eight (8) feet in height.
  - g. Machines shall be constructed and maintained with durable, waterproof and rustproof material. The color of the machine shall be compatible with the colors utilized on the site upon which it is located.
  - h. Machines shall be clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative.
  - i. Machines shall have a sign area of a maximum of four (4) square feet per machine, exclusive of operating instructions.
  - j. Machines shall be maintained in a clean, sanitary, and litter-free condition on a daily basis.
  - k. Operating hours shall be consistent with the primary commercial use.
  - l. Machines shall be illuminated to insure comfortable and safe operation if the operating hours are between dusk and dawn.
  - m. Machines shall maintain an adequate on-site refuse container for disposal of nonhazardous waste.
2. **Small Collection Facilities.** Small collection facilities shall comply with the standards of the zoning district in which they are located and the following criteria:
  - a. Facilities shall be established in conjunction with a commercial use or community service facility that is in compliance with this Development Code and the building and fire codes of the Town.

- b. Facilities shall be no larger than 500 square feet and located within a convenience zone.
- c. No more than one (1) small collection facility shall be permitted in each convenience zone. A "convenience zone" is the area within a one-half mile radius of a supermarket as defined within PRC 14509.4 and PRC 14562.5. In the event two or more permit applications are received for a convenience zone which does not possess a recycling facility, the development services director or his/her designee, in his/her discretion, may choose to allow a second facility based on other factors such as convenience of use for pedestrian and vehicular traffic safety, aesthetic and site compatibility.
- d. Facilities shall be located upon a paved surface. When located within a parking lot, the facility may occupy no more than five (5) parking spaces, not including space that will be periodically needed for removal of materials or exchange of containers.
- e. All previously approved or required drive aisles and vehicular circulation areas and access drives shall be maintained clear and unobstructed at all times.
- f. Facilities shall not obstruct pedestrian or vehicular traffic and must comply with the minimum front and street side yard setbacks for the zoning designation, and be set back at least ten (10) feet from any other property line.
- g. Facilities shall not be visible from the public right-of-way.
- h. Recycling facilities shall be designed in a manner consistent with the architecture of the host business and are encouraged to use existing planters and site features when choosing a location.
- i. The hours of operation shall be 9:00 a.m. to 7:00 p.m. or consistent with the primary commercial use on the site.
- j. Facilities shall accept only glass, metals, plastic containers, papers and reusable items.
- k. Collection of scrap metal, solid wastes, yard wastes, or hazardous wastes as defined within Municipal Code Section 6.20.010 shall be prohibited.
- l. Facilities shall use no power-driven processing equipment except reverse vending machines.
- m. Facilities shall use containers that are:
  - 1) Constructed and maintained with durable waterproof and rustproof material;
  - 2) Covered when the site is not attended;
  - 3) Secured from unauthorized entry or removal of material; and
  - 4) Of sufficient capacity to accommodate materials collected and the collection schedule.
- n. All recyclable material shall be stored in containers or in the mobile unit vehicle and shall not be left outside of containers when the attendant is not present.
- o. Facilities shall be maintained in a clean and sanitary manner free of litter and any other undesirable material.

- p. Noise levels shall not exceed sixty-five (65) dba as measured at the property lines of adjacent residential uses or districts.
  - q. Facilities shall not be located within 100 feet of any residential use or district.
  - r. Collection containers shall be clearly marked to identify the type of material that may be deposited, to identify the name and phone number of the operator of the facility, the hours of operation, and to display a notice that no material shall be left outside the recycling enclosure or containers.
  - s. A “No Loitering” sign shall be posted. Other signs may be provided as follows:
    - 1) Recycling facilities may have identification signs with a maximum area of fifteen (15) percent per side of a structure or sixteen (16) square feet, whichever is larger. In the case of a wheeled facility, the side shall be measured from the ground to the top of the container.
    - 2) Signs shall be compatible with existing signs at the location.
    - 3) Directional signs, with no advertising message, may be installed with the approval of the Director if necessary to facilitate traffic circulation or if the facility is not visible from the public right-of-way.
  - t. The recycling facility shall not harm or interfere with the required landscaping on the site.
  - u. No additional parking spaces shall be required for customers of a small collection facility located within the established parking lot of the primary use. One space will be provided for the attendant, if necessary.
  - v. An area for mobile recycling units shall be clearly marked to prohibit other vehicular parking during the hours when the mobile unit is scheduled to be present.
  - w. Occupation of parking spaces by the recycling facility and by the attendant shall not reduce the available parking spaces below the minimum number required by the primary use unless a parking study shows that existing parking capacity is not fully utilized during the time that the recycling facility will be on the site. The approval for shared parking will be reconsidered after eighteen (18) months;
  - x. Facilities shall maintain an adequate on-site refuse container for disposal of non-hazardous waste.
3. **Large Collection Facilities.** Large collection facilities shall comply with the standards of the zoning district in which they are located and the following criteria:
- a. Large collection facilities occupy over 500 square feet and shall be setback a minimum of 500 feet from any residential uses or districts.
  - b. The facility shall be screened from the public right-of-way by operating within an enclosed building, or within an area enclosed by a six (6)-foot high solid decorative masonry wall. Only truck trailers and overseas containers may be visible above the wall.
  - c. Structure setbacks and landscape requirements shall be as required in the zoning district in which the facility is located.

- d. All exterior storage of material shall be in sturdy containers that are covered, secured and maintained in good condition. Storage containers for flammable materials shall be in containers constructed of nonflammable materials.
- e. The site shall be maintained clean, sanitary and free of litter and any other undesirable materials, and shall be cleaned of loose debris on a daily basis.
- f. Enough space shall be provided on-site for six (6) vehicles to circulate and drop off recyclable materials.
- g. Four (4) parking spaces for employees plus one (1) space for each commercial vehicle operated by the facility shall be provided on-site.
- h. Noise levels shall not exceed sixty-five (65) dba at the property lines.
- i. If the facility is within 500 feet of a residential use or district, it shall not operate between 7:00 p.m. and 7:00 a.m.
- j. Containers provided for the after hours donation of recyclable materials shall be of sturdy, rust proof construction, shall have sufficient capacity to accommodate the materials collected, and shall be secure from unauthorized entry or removal of materials; such containers shall be located at least ten (10) feet from any building.
- k. Donation areas shall be kept free of litter and any other undesirable material and the containers shall be clearly marked to identify the type of material that may be deposited. The facility shall display a notice stating that no material may be left outside the recycling containers.
- l. The facility shall be clearly marked with the name and phone number of the operator and the hours of operation. Identification and informational signs shall comply with the provisions of the zoning district in which it is located. Directional signs, with no advertising message, may be installed with the approval of the Director if necessary to facilitate traffic circulation or if the facility is not visible from the public right-of-way.
- m. Power-driven processing, including aluminum foil and can compacting, bailing, plastic shredding, or other light processing activities necessary for efficient temporary storage and shipment of material, may be approved through the applicable review process.
- n. The facility shall maintain an adequate on-site refuse container for disposal of non-hazardous waste.

**Section 5.** Modify Development Code Paragraph 21 of Table 9.35.030-A “Permitted Uses” of Chapter 9.35 “Commercial and Office Districts” as follows:

TYPE OF USE <sup>(1)</sup>	DISTRICT <sup>(1)</sup>					
	O-P	C-G	C-S	C-R	C-V	M-U
21. Recycling facilities for reusable domestic materials						
a. Reverse vending machines	-	P	P	P	P	P
b. Small Collection Facility Recycling Collection Point less than 500 sq ft	-	SUP	SUP	SUP	SUP	SUP
c. Large Collection Facility Recycling Collection Point over 500 sq ft	-	-	CUP	-	CUP	-
d. Recycling Center	-	-	CUP	-	-	-

**Section 6.** Modify Development Code Paragraph 9 of Table 9.45.030-A "Permitted Uses" of Chapter 9.45 "Industrial Districts" as follows:

TYPE OF USE <sup>(1)</sup>	I-P <sup>(2)</sup>	I-RE <sup>(2,3)</sup>
9. Recycling facilities for reusable domestic materials (Subject to Section 9.36.180):		
a. Reverse vending machines	P	P
b. Small Collection Facility Recycling Collection Point less than 500 sq ft	SUP	-
c. Large Collection Facility Recycling Collection Point over 500 sq ft Recycling	CUP	-
d. Recycling Centers	CUP	-
e. Yard waste composting facilities, outdoors	-	-
f. Recycling Plants	CUP	-

**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 12th day of January 2021.

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Honorable Curt Emick, 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