

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

ADOPT ORDINANCE No. 412, AN AMENDMENT TO TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING SECTION 9.28.030 "PERMITTED USES", ADDING SECTION 9.29.150 "PHOTOVOLTAIC SOLAR FARMS" AND AMEND THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN (NAVISP) NO. 2005-001 AMENDMENT NO. 3 BY ESTABLISHING REGULATIONS RELATED TO PHOTOVOLTAIC SOLAR FARMS.

Summary Statement:

At its meeting of August 10, 2010, the Town Council reviewed and introduced Ordinance No. 412, amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code, amending Section 9.28.030 "Permitted Uses" and adding Section 9.29.150 "Photovoltaic Solar Farms". Ordinance No. 412 also amends the North Apple Valley Industrial Specific Plan by establishing regulations related to permitting photovoltaic solar farms. As part of the requirements to adopt a new Ordinance, Ordinance No. 412 has been scheduled for adoption at the September 14, 2010 Town Council meeting.

Recommended Action:

Adopt Ordinance No. 412

Proposed by: Planning Division

Item Number _____

Town Manager Approval: _____

Budget Item Yes No N/A

Town Council Meeting: September 14, 2010

ORDINANCE No. 412

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ADOPTING DEVELOPMENT CODE AMENDMENT NO. 2010-005 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING SECTION 9.28.030 “PERMITTED USES” AND ADDING SECTION 9.29.150 “PHOTOVOLTAIC SOLAR FARMS” AS IT RELATES TO PERMITTED USES AND SITE DEVELOPMENT STANDARDS FOR PHOTOVOLTAIC SOLAR FARMS WITHIN THE AREA DESIGNATED AS THE APPLE VALLEY DRY LAKE AND ADOPT SPECIFIC PLAN NO. 2005-001 AMENDMENT NO. 3 THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN BY AMENDING SECTION III “DEVELOPMENT STANDARDS AND GUIDELINES” AS THEY RELATE TO PERMITTED USES AND SITE DEVELOPMENT STANDARDS FOR PHOTOVOLTAIC SOLAR FARMS.

The Town Council of the Town of Apple Valley, State of California, does hereby ordain as follows:

Section 1. Recitals.

(i) 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

(ii) 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

(iii) A Specific Plan of Land Use was adopted on October 10, 2006 by the Town Council on the recommendation of the Planning Commission for lands generally located east of Dale Evans Parkway, south of Quarry Road, west of Central Road and north of Waalew Road, known as the North Apple Valley Industrial Specific Plan; and

(iv) The North Apple Valley Industrial Specific Plan has been previously modified by the Town Council on the recommendation of the Planning Commission; and

(v) Specific Plan No. 2005-001 Amendment No. 3 is consistent with the General Plan and Municipal Code of the Town of Apple Valley; and

(vi) Specific changes to Chapters 9.28 “Residential Districts” and 9.29 “Specific Use Regulations For Residential Districts” of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to allowing photovoltaic solar farms within the area identified as the Apple Valley Dry Lake generally located north of Thunderbird Road, west of Joshua Road, east of Dale Evans Parkway and south of South Road located within the Town of Apple Valley; and

(vii) Specific changes are proposed to the North Apple Valley Industrial Specific Plan by amending Section III “Development Standards and Guidelines” as they relate to permitted land uses and development standards.

(ix) On July 30, 2010, Development Code Amendment No. 2010-005 and Specific Plan 2005-001 Amendment No. 3 were duly noticed in the Apple Valley News, a newspaper of

general circulation within the Town of Apple Valley; and

(x) Based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be seen with certainty that Development Code Amendment will not have a direct, adverse impact upon the environment and, therefore, is EXEMPT from further environmental review; and

(xi) On June 16, 2010, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2010-005 and Specific Plan 2005-001 Amendment No. 3, receiving testimony from the public and adopted Planning Commission Resolution 2010-004; and

(xii) Development Code Amendment No. 2010-005 and Specific Plan 2005-001 Amendment No. 3 are 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.

Section 2. Findings.

(i) Find that the changes proposed by Development Code Amendment No. 2010-005 and Specific Plan 2005-001 Amendment No. 3 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

(ii) Find that, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be seen with certainty that the proposed Development Code Amendment No. 2010-005 and Specific Plan 2005-001 Amendment No. 3 are not anticipated to have a direct, adverse impact upon the environment and, therefore, is EXEMPT from further environmental review.

Section 3. Add new No. 15 and 16 to paragraph E “Manufacturing and Production Uses” of Table III-1 “Allowable Uses” of subsection C. “Allowable Uses” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

TYPE OF USE	COMMERCIAL	INDUSTRIAL		AIRPORT
	SP C-G	I-SP	I-G	IA-SP
15. Photovoltaic Solar Farms 10 acres or less	-	P	P	P
16. Photovoltaic Solar Farms greater than 10 acres and less than 400 acres located east of Navajo Road	-	CUP	CUP	CUP

Section 4. Add a new paragraph 10. of subsection E. “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

10. Photovoltaic Solar Farms

All photovoltaic solar farms within the I-SP, I-G and IA-SP Districts shall be fenced with chain link or wrought iron fencing a maximum of ten (10) feet high. The use of barbed wire and outdoor lighting is prohibited. Solar Panels shall have a maximum height of thirty-five (35) feet within the Airport Influence area (A-1) and fifty (50) feet in Airport Influence area (A-2), I-SP and I-G. Photovoltaic solar farms greater than 10 acres in size shall be located east of Navajo Road. Street setbacks shall be

the minimum landscape setbacks as described in Table III-2 of this Section. Interior setbacks shall be zero. Setbacks from rock outcroppings shall be twenty-five (25) feet. All buildings ancillary to the solar farm shall comply with the development standards in Table III-2 of this Section. Decorative gravel/rock shall be placed along the street frontage from the back of curb to the setback line. There is no requirement for off-street parking. All adjacent roadways shall be improved to Town standards for industrial areas.

Section 5. Amend the first subparagraph of paragraph 5. “Outdoor Uses” of subsection E. “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

5. (First Paragraph)

All manufacturing and active uses in the SP, C-G and I-SP districts shall be conducted entirely within and enclosed building, with the exception of photovoltaic solar farms where permitted.

Section 6. Amend the third subparagraph of paragraph 5. “Outdoor Uses” of subsection E. “Land Use Regulations” of Section III “Development Standards and Guidelines” of the North Apple Valley Industrial Specific Plan to read as follows:

5. (Third Paragraph)

Outdoor manufacturing or other active use is prohibited in the SP, C-G and I-SP Districts, with the exception of photovoltaic solar farms where permitted and as described in paragraph 5. below. Outdoor manufacturing or other active use may be permitted in the I-G District, under the standards provided below.

Section 7. Add No. 5 to paragraph E. “Other Uses” of Table 9.28.030-A of subsection 9.28.030 “Permitted Uses” of Section 9.28 “Residential Districts” of the Development Code to read as follows:

TYPE OF USE	R-VLD	R-A	R-LD	R-E	R-E ¾	R-EQ	R-SF	R-M	MHP	M-U	PRD
E. Other Uses											
5. Photovoltaic Solar Farms 10 acres or less within the Dry Lake area	SUP	-	-	-	-	-	-	-	-	-	-
Photovoltaic Solar Farms greater than 10 acres and less than 400 acres in the Dry Lake area	CUP	-	-	-	-	-	-	-	-	-	-

Section 8. Add subsection 9.29.150 “Photovoltaic Solar Farms” to Section 9.29 “Specific Use Regulations for Residential Districts” of the Development Code to read as follows:

9.29.150 Photovoltaic Solar Farms

A. Purpose. The purpose of this subsection is to provide opportunities for photovoltaic solar farms within the Apple Valley Dry Lake Area within the R-VLD Residential District. The occasional retention of water in the Apple Valley Dry Lake is a compatible use with the photovoltaic panels which make up the solar farm. The intent of this Code is to insure that the photovoltaic solar farms are compatible with, and do not negatively impact the surrounding uses.

B. Permit Required. A Special Use Permit shall be required for photovoltaic solar farms ten (10) acres or less located within the Apple Valley Dry Lake. Photovoltaic solar farms greater than ten (10) acres and less than 400 acres located within the Apple Valley Dry Lake shall require a Conditional Use Permit.

C. Development Standards.

All photovoltaic solar farms shall be fenced with chain link or wrought iron fencing a maximum of ten (10) feet high. The use of barbed wire and outdoor lighting is prohibited. The permanent height of the solar panels shall have a maximum height of thirty-five (35) feet and the moveable portion of the solar panel, which rotates with the sun, shall not exceed fifty (50) feet in height. Street setbacks from a major or secondary roadway shall be a minimum of twenty-five (25) feet and street setbacks from local roadways shall be five (5) feet. Interior setbacks shall be zero. Setbacks from lot lines of existing single family residences shall be twenty-five (25) feet. All buildings ancillary to the solar farm shall comply with the Residential-Very Low Density (R-VLD) development standards and shall be built on a pad with an elevation at or above 2,911 feet. Street improvements to secondary and major roadways shall be installed in accordance with the Town requirements. All other roadways providing access to the project may be improved with all weather materials as required by the Town Engineer and maintained in a dust-free manner and kept clear of any litter, trash or debris. There is no requirement for off-street parking.

Section 9. Invalidation. The amendment by this Ordinance of Title 9 “Development Code” of the Town of Apple Valley Municipal Code as previously in effect, or of any other prior enactment, shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to such Title or other enactment while the same was in effect.

Section 10. 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 11. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 12. 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.

Adopted by the Town Council and signed by the Mayor and attested by the Town Clerk this 14th day of September, 2010.

Honorable Peter Allan, Mayor

ATTEST:

Ms. La Vonda M-Pearson, Town Clerk

Approved as to form:

Mr. John Brown, Town Attorney

Approved as to content:

Mr. Frank Robinson, Town Manager