

ORDINANCE No. 371

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DETERMINING THAT DEVELOPMENT CODE AMENDMENT NO. 2007-016 IS EXEMPT FROM FURTHER ENVIRONMENTAL REVIEW AND AMEND TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, CHAPTER 9.19 "HOME OCCUPATION PERMITS", TO RESTRICT THE NUMBER OF EMPLOYEES, PROHIBIT OUTDOOR STORAGE VISIBLE FROM PUBLIC VIEW, ADD OPERATING HOURS AND CHANGE THE REVOCATION PROCESS TO AN ADMINISTRATIVE HEARING BY A HEARING OFFICER.

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 October 24, 2000; 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) Specific changes are proposed to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending by amending subsections "A", "B" and "C" of Section 9.19.50 "Operating Standards" for all Residential Districts as it pertains to outdoor storage, operation hours; restricting the number of employees in the R-VLD, R-A and R-LD Districts and in the R-E, R-EQ, R-SF and R-M Districts.

(iv) On November 23, 2007, Development Code Amendment No. 2007-016 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

(v) 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

(vi) On September 5, 2007, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2007-016, receiving testimony from the public and adopted Planning Commission Resolution No. 2007-014 recommending adoption of this Ordinance; and

(vii) Development Code Amendment No. 2007-016 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.

Section 2. Findings.

(i) Find that the changes proposed by Development Code Amendment No. 2007-016 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), the project is exempt from further environmental review. Section 15061(b)(3), 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.

Section 3. Amend paragraph 6 of subsection “A” of Section 9.19.050 “Operating Standards” of Chapter 9.19 “Home Occupation Permits” to read as follows:

6. There shall be no visible outside storage of stock, merchandise, scrap supplies, or other materials or equipment on the premises. Any storage of hazardous, toxic, or combustible materials in amounts exceeding those typically found in residential uses shall be prohibited;

Section 4. Amend paragraph 1 of subsection “B” of Section 9.19.050 “Operating Standards” of Chapter 9.19 “Home Occupation Permits” to read as follows:

1. The home occupation shall be carried out primarily by a full time resident(s) of the dwelling. One (1) additional employee may also be used for a home occupation provided all the required findings can be made;

Section 5. Amend paragraph 1 of subsection “C” of Section 9.19.050 “Operating Standards” of Chapter 9.19 “Home Occupation Permit” to read as follows:

1. The home occupation shall be carried out primarily by a full time resident(s) of the dwelling. One (1) additional employee may also be used for a home occupation provided all the required findings can be made.

Section 6. Amend paragraph 13 of subsection “A” of Section 9.19.050 “Operating Standards” of Chapter 9.19 “Home Occupation Permits” to read as follows:

13. No use shall create or cause noise, dust, light, vibration, odor, gas fumes, toxic or hazardous materials, smoke, glare, electrical interference, fluctuations in the line voltage outside the structure, or other hazards or nuisances, subject to conformance with Section 9.70 Performance Standards and Section 9.73 Noise Control.

Section 7. Amend subsection “A” of Section 9.19.050 “Operating Standards” of Chapter 9.19 “Home Occupation Permits” to read as follows:

15. The home occupation shall be restrict to operations between Monday through Saturday, between the hours of 8 am to 5 pm.

Section 8. Amend the first three lines of Section 9.19.080 “Revocation” of Chapter 9.19 “Home Occupation Permit” to read as follows:

9.19.080 Revocation

Home Occupation Permits may be revoked or modified by the Town Manager or Designee who shall act as the Hearing Officer in compliance with the provisions of this Code, if any one of the following findings can be made:

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 8th day of January, 2008.

ATTEST:

Honorable Timothy Jasper, Mayor

La Vonda M-Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. Neal Singer, Town Attorney

Mr. James L. Cox, Interim Town Manager