

**TOWN OF  
APPLE VALLEY, CALIFORNIA  
AGENDA MATTER**

**Subject Item:**

**INTRODUCE ORDINANCE NO. 388, AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING CHAPTER 1.01.200 VIOLATIONS; ADDING SECTION 1.01.205 ADMINISTRATIVE HEARINGS; AMENDING SECTION 15.01.010 DEFINITIONS, AMENDING SECTION 15.01.020 (j) MANDATORY LICENSING, ADDING SECTIONS 15.01.050 ANIMAL CARE AND SECTION 15.01.055 ANIMAL TETHERING, AMENDING SECTION 15.01.070 CONTROL OF ANIMALS, ADDING SECTION 15.01.095 MANDATORY SPAY/ NEUTER AMENDING SECTION 15.01.110 ANNUAL PERMIT/BUSINESS LICENSE, AND AMENDING SECTION 15.01.125 ANIMAL LIMITATIONS.**

**SUMMARY STATEMENT**

At the June 24, 2008 Council meeting staff was asked to look into regulations to govern the upkeep of vacant properties. The concern arose out of the increasing numbers of vacant foreclosed properties in the Town due to the subprime lending practices by mortgage companies.

**Recommended Action:**

1. Find that the proposed adoption of Ordinance No. 388 is not subject to and is Exempt from CEQA, based upon findings under CEQA Guidelines, Section 15061 Sub (b)(3) that can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment.
2. Move to waive the reading of Ordinance No. 388 in its entirety and read by title only.
3. Move to Introduce Ordinance No. 388, amending Chapter 1.01.200 General Provisions Violations and adding section 1.02.105 General Provisions Administrative Hearings. To amend section 15.01.010 Definitions, amend section 15.01.020 (j) Mandatory Licensing, add section 15.01.050 Animal Care and section 15.01.055 Animal Tethering, amend section 15.01.070 Control of Animals, amend section 15.01.110 Annual Permit/Business License, and amend section 15.01.125 Animal Limitations of the Apple Valley Municipal Code.
4. Direct Staff to File a Notice of Exemption.

**Proposed by:** Municipal Services **Item Number** \_\_\_\_\_

**T. M. Approval:** \_\_\_\_\_ **Budgeted Item**  **Yes**  **No**  **N/A**

In addition, Animal Care and Control is recommending changes and additions to the Municipal Code to allow for easier enforcement of dog tethering violations as well as animal care enforcement. Also suggested is language to assist in enforcing the mandatory spay/neuter requirement for any dog or cat adopted from the Town of Apple Valley Animal Shelter, amending the definitions of Title 15 and amending the animal limitations section.

### **Summary Statement: Administrative Citations and Administrative Hearings**

After reviewing existing ordinances for upkeep of foreclosed properties staff determined that there are sufficient provisions in the public nuisance codes that can be used for that purpose. During the review it was determined that administrative remedies which have proved effective throughout California, were present in the Town of Apple Valley Municipal Code. However, the administrative process needs to be updated and clarified.

The number of foreclosed properties is not just a local issue but is a State and National issue. As a result Governor Schwarzenegger signed into law SB 1137 which mandates purchasers of foreclosed properties to maintain them. Failure to maintain the property is a violation of the law. For the purposes of this law "Failure to Maintain" means failure to care for the exterior of the property, including, but not limited to permitting excessive foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers or squatters from remaining on the property, or failing to take action to prevent mosquito larvae from growing in standing water or other conditions that create a public nuisance. Local government may impose a civil fine of \$1000 per day for properties in violation of this law.

The limitations of this law are that only maintenance issues are considered to be violations and the specific requirements under which a property must fall into in order to be in violation of this law. This law only applies to properties where loans were obtained between January 1, 2003, and December 31, 2007. This law expires on January 1, 2013 unless extended or repealed. Further, this law only applies to purchasers of foreclosed properties and would not apply to a property that is in default but not yet foreclosed.

While conducting research to see how other jurisdictions are dealing with this issue, staff discovered that other municipalities are experiencing the same difficulties when dealing with banks and lenders. These other municipalities have found success by using the administrative citation process. Using an administrative citation process, the property owner can be issued an administrative citation directly for failing to comply with a notice to abate a violation. Administrative citations may be issued daily as long as a violation(s) is/are maintained on a property. Typically, the Administrative Citation process is used when other enforcement remedies have failed. Since the Administrative Citation is issued on a daily basis, banks recognize that they must respond to minimize the accumulation of fines.

The Cities of Hesperia and Victorville have both added administrative citation sections and have successfully used them to gain compliance.

The City of Victorville began using the administrative citation process approximately one year ago. Both Code Enforcement and Animal Control use them as the primary tool when notices have failed to obtain compliance. This has been a valuable tool when dealing with vacant properties; lenders are calling code enforcement as fines begin to accumulate and the banks/lenders are abating violations. The court citation is still used under certain

circumstances when it is determined that the court process will work better to gain compliance.

Likewise, the City of Hesperia has found success using administrative citations. They have been using this process for several years and have had a greater response from banks and lenders using this process. The administrative citation is not only useful when dealing with banks and lenders, it works well for most Municipal Code violations and can be used as the primary tool of enforcement when notices have failed to gain compliance.

The other added benefit of using an administrative citation is that fines collected from these citations come directly back to the Town unlike the court citations where only thirty percent (30%) of collected fines come back to the Town. Town staff also has the ability to work out an agreement with the violator to reduce fines in order to gain compliance whereas in a court setting the judge determines the fine amounts.

Presently, the Town has provisions in the Municipal Code that allow for the option of violations to be handled as administrative citations with violations being \$100 for the first violation per count per day, \$250 for the second violation per count per day and \$500 for the third and subsequent violation per count per day plus costs.

Apple Valley Code Enforcement has begun to use this process on a trial basis to determine if imposing daily fines on banks and property owners has any better results than the standard court process. The results of the trial have had a positive outcome. Code Enforcement utilized the administrative citation process on three test cases. These properties were difficult enforcement cases and the traditional enforcement actions were not gaining compliance. The administrative citation process was started with daily citations being issued for two weeks. Towards the end of the second week, Code Enforcement received phone calls from the property owners asking what they needed to do to comply and to have the citations stop. In all three cases the violations were corrected within thirty days.

The administrative citation process the Town currently has in place along with the existing nuisance code sections provides more broad enforcement capabilities than the new state law. Due to its limited scope and stringent requirements to qualify as a violation the new state law would be restricted to specific properties not all bank owned properties. Staff is continuing to review new ordinances adopted by California cities related to vacant bank owned properties and will be bringing back a hybrid of these codes to the Council for consideration.

The revisions proposed in this agenda item will strengthen the Town of Apple Valley's existing laws to clarify the administrative citation process as well as to introduce the administrative hearing and appeal process. Using the administrative citation process as a primary tool when dealing with bank owned or problem properties has the potential to increase the number of properties brought into compliance. This ordinance will provide consistent administrative processes for the abatement of nuisance conditions and enforcement of property maintenance codes.

### **Summary Statement: Title 15 Animal Control Definitions**

The current language in Title 15 Section 15.01.010 does not clearly define proper animal care as accepted by animal care professionals. The new language will introduce new terms and clarify existing terms. Definitions have been re-alphabetized accordingly.

### **Summary Statement: Mandatory Licensing**

This ordinance shall amend Title 15 Section 15.01.020 (j) to uniformly require all residents to license their dog within 30 days of moving to Apple Valley. The current language requires licensed dogs from another jurisdiction to be licensed in Apple Valley within 30 days and unlicensed dogs to be licensed within 15 days.

### **Summary Statement: Animal Tethering and Animal Care**

In January 1, 2007, the State of California enacted Health and Safety Code 122335 - Dog Tethering stating in summary dogs cannot be tied longer than three (3) hours in a twenty-four (24) hour period. This agenda item will incorporate the State law into the Municipal Code for simple prosecution. Previous citations written by Town of Apple Valley Animal Control Officers have been returned by the court. The court requires all tethering violations to be prosecuted by the District Attorney. Preparing a tethering case for prosecution by the District Attorney is time consuming for staff. In addition, the District Attorney does not have the resources to prosecute all tethering violations. The proposed changes introduces Section 15.01.055 Animal Tethering, and amends Section 15.01.110 (b) (9) Annual Permit/Business License to include tethering restrictions.

This agenda item also introduces Section 15.01.050 Animal Care. The current Municipal Code does not address the proper care, feeding, and shelter of small domestic animals such as dogs and cats. Animal Control Officers must submit violations to the District Attorney's office for prosecution. Due to the heavy caseload and the nature of violation, the District Attorney's office will not prosecute. This leaves the Animal Control Officer with no recourse for correction to the animal's state of life.

The items will serve to introduce two (2) new Municipal Codes sections; provide definitions for language included in new sections; and renumber and re-alphabetize current subsections.

### **Summary Statement: Control of Animals**

The current section states dogs must be held 120 days which does not comply with California Food and Agriculture Code 31108 – Impound Holding Period for Stray Dogs. The new language would change Section 15.01.070 to state dogs must be held in accordance with F & A 31108.

### **Summary Statement: Mandatory Spay/Neuter of Adopted Dogs and Cats**

Enacted in 1985, and amended in 2004, the State of California Food and Agricultural Code Section 30503 – Spay/neuter of Dogs and Section 31751.3 – Cats: Spay/neuter deposit Required, reads “animals adopted from an animal control agency or shelter, humane society, or rescue group shall not sell or give away any dog or cat without said animal being spayed or neutered.” Adoptees of dogs and cats too ill or young to undergo the surgery can still adopt the animals but are required to pay a deposit., which is refunded once the new owner has brought in proof of sterility.

Currently, there are no provisions within the Municipal Code that allow Animal Control to pursue charges against pet owners who fail to have their adopted animal spay/neutered. Since the 2005 opening of the Town of Apple Valley Shelter, 2,624 adoptions have been completed. Animals ill or too young to be spayed or neutered have been adopted with a deposit. Of those adoptions, 120 animals have not been returned to be spayed or neutered. Unfortunately, the Town of Apple Valley shelter has received litters from owners who have failed to comply with required spay/neuter conditions for their adopted animals. This has increased the number of euthanasia procedures by shelter staff and produced unwanted animals in the town.

Adding section 15.01.095 would allow animal control officers to impound and/or issue citations to owners who fail to spay/neuter in the required time frame. Staff believes this revision will increase compliance with spay/neuter requirements of adopted animals and reduce euthanasia of unwanted animals.

### **Summary Statement: Annual Permit/Business License**

This ordinance amends Section 15.01.110 (b) (9) Annual Permit/Business License to include tethering restrictions, define proper nutrition and shelter, and provide definitive guidelines and procedures for Permit revocation. Changes are in red or strikethrough. Subsequent numbered sections shall be renumbered accordingly.

**ORDINANCE NO. 388**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING CHAPTER 1.01.200 VIOLATIONS; ADDING SECTION 1.01.205 ADMINISTRATIVE HEARINGS; AMENDING SECTION 15.01.010 DEFINITIONS, AMENDING 15.01.020 (j) MANDATORY LICENSING, ADDING SECTIONS 15.01.050 ANIMAL CARE AND SECTION 15.01.055 ANIMAL TETHERING, AMENDING 15.01.070 CONTROL OF ANIMALS, ADDING SECTION 15.01.095 MANDATORY SPAY/NEUTER AMENDING SECTION 15.01.110 ANNUAL PERMIT/BUSINESS LICENSE, AND AMENDING SECTION 15.01.125 ANIMAL LIMITATIONS.**

WHEREAS, in order to better protect the health, safety, and welfare of its citizens and to complement the provisions of the Apple Valley Municipal Code related to public nuisances and property maintenance; and

WHEREAS, the Town Council hereby expresses its statement of policy that the best interests of the Town of Apple Valley are served when property owners are encouraged to maintain their properties free of public nuisances; and

WHEREAS, such derelict properties individually and collectively constitute a blight and nuisance in Town neighborhoods, create fire and health hazards, and are sometimes a haven for immoral and criminal purposes; and

WHEREAS, such derelict properties constitute unreasonable interference with the reasonable and lawful use and enjoyment of other premises in Town neighborhoods, are harmful to the social economic well-being of the Town of Apple Valley, depreciate property values and generally jeopardize the health, safety, and welfare of the public; and

WHEREAS, It is the objective of the Town of Apple Valley through code enforcement efforts to preserve and enhance properties located within the Town limits; and

WHEREAS, the Town Council desires to establish additional comprehensive regulations applicable to vacant structures and land;

WHEREAS, the Town Council of the Town of Apple Valley has adopted Title 15 Code which provides for Animal Control services with the Town of Apple Valley; and

WHEREAS, said Municipal Code Title 15 was amended November 2, 2000 by a Resolution of the Town Council of the Town of Apple Valley; and

WHEREAS, Municipal Code Title 15 does not address required spaying or neutering of dogs and cats adopted from a shelter, humane society, or rescue group; and

WHEREAS, litters produced by the unaltered dogs and cats has increased the number of euthanasia procedures performed by shelter staff; and

WHEREAS, spaying and neutering reduces the number of animals unable to find suitable homes;

WHEREAS, Municipal Code Title 15 does not address animal tethering and requires an introduction of proper care for animals residing in Apple Valley; and

NOW, THEREFORE THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES ORDAIN AS FOLLOWS:

Section 1. Section 1.01.200 (e) and following of Title 1; Sections 15.01.050, 15.01.055, 15.01.95 and 15.01.110 (b)(9) of Title 15 of the Town of Apple Valley Municipal Code is hereby amended to read as follows:

## **1.01.200**

### **Administrative Citations**

(e) Any person violating any of the provisions or failing to comply with any of the requirements of this code, unless otherwise specified in particular titles, chapters, or sections of this code, including parking violations, may be issued an administrative citation by any employee authorized to issue such citations under Section 1.08.050 of this Code. The fines schedule for such administrative citation shall be as follows:

(1) A fine not exceeding one hundred dollars (\$100) plus costs for a first violation;

(2) A fine not exceeding two hundred fifty dollars (\$250) plus costs for a second violation of the same code section within one year of the date of the conviction of the first offense; and

(3) A fine not exceeding five hundred dollars (\$500) for each additional violation of the same code section within one year of the date of the conviction of the first offense.”

(f) Each administrative citation shall contain the following information.

(1) Name of the responsible person for the violation for this code.

(2) Date on which an inspection established the code violation.

(3) The code section(s) violated.

(4) Address where the code violation occurred.

(5) Amount of the fine for the violation and procedure to pay the fine and avoid a late payment penalty.

(6) Description of the procedure for requesting an administrative hearing to contest a citation.

(7) A notice that the code violation is a nuisance and that collection of unpaid fines and/or nuisance abatement costs can be enforced as an assessment of lien against the property where a property related code violation occurs and that unpaid assessments can result in the property being sold after three years by the County Assessor.

(8) An order prohibiting the continuation or repeated occurrence of the code violation or public nuisance described in the administrative citation.

(9) Name of the Enforcement Officer issuing the citation.

(g) Each administrative citation shall be accompanied by an itemized statement and invoice of the enforcement costs incurred to the date of the citation.

(h) Service of Citation.

(1) An Enforcement Officer may personally serve the citation on the responsible person. The responsible person is required to sign a copy of the citation showing his or her receipt of the citation. If the responsible person served refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation or of the subsequent proceedings.

(2) An Enforcement Officer may mail the citation by certified mail. The citation shall be mailed certified mail return receipt requested to the responsible person's address shown on the county's last equalized property tax assessment rolls for a property related violation, or to any address known for the cite for all other violations. Simultaneously, the citation may be sent by first class mail. If the citation is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the citation sent by first class mail is not returned.

(i) Satisfaction of the administrative citation. Upon receipt of a citation, the responsible person must do the following:

(1) Pay the fine to the Town within fifteen (15) days from the date of the citation. All fines assessed shall be payable to the Town of Apple Valley Finance Department. Payment of a fine shall not excuse or discharge a failure to correct continuing violations nor shall it bar further enforcement action by the city.

(j) Reduction of administrative citation fine amounts: The Town Manager or designee may reduce the administrative citation fine amount at his/her discretion provided the minimum fine imposed is no less than one thousand dollars (\$1000) unless the total fine due is less than one thousand dollars (\$1000) in which case the fine shall not be reduced.

(k) Any vehicle violating Vehicle Code Section 22507.8, Disabled Parking may be issued an administrative citation by any employee authorized to issue such citations under Section 1.08.050 of this Municipal Code. The fine for such violation is set by the California Vehicle Code as the same may amended from time to time.

Section 2. Section 1.02.205 of Title 1 of the Town of Apple Valley Municipal Code is hereby added as follows:

### **1.01.205**

#### **Appeal of the administrative citation.**

(1) Time frame to file an appeal. Any recipient of an administrative citation may contest that there was a violation of the Apple Valley Municipal Code or that he or she is the responsible person by completing a "request for hearing" form and returning it to the Town within fifteen (15) days from the date the administrative citation is served or deemed to have been served, together with an advanced deposit of the fine. Such "request for hearing" forms shall be made available at no charge by the Town Clerk. A failure to file a timely "request for hearing" shall be deemed a waiver of the right to appeal the citation and to seek judicial review.

(2) Return of deposit. Any administrative citation fine which has been deposited shall be refunded if it is determined, after a hearing, the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

(3) Hearing officer. The Town Manager shall designate the hearing officer for the administrative citation hearing.

(4) Hearing procedure.

a. No hearing to contest an administrative citation before a hearing officer shall be held unless and until a timely "request for hearing" form has been completed and submitted and, the fine has been deposited in advance.

b. After receipt of the "request for hearing" and fine deposit, a hearing before the hearing officer shall be set for a date that is not less than fifteen (15) and not more than sixty (60) days from the date that the "request for hearing" is filed in accordance with the provisions of this section. The person requesting the hearing shall be notified of the time and place set for the hearing at least seven (7) days prior to the date of the hearing. The failure of any recipient of an administrative citation to appear at the hearing shall constitute a forfeiture of the fine and be a bar to judicial review of the hearing officer decision based upon a failure to exhaust administrative remedies.

c. The hearing officer shall only consider evidence that is relevant to whether the violation occurred and whether the responsible person has

caused or maintained the violation of the municipal Code on the date(s) specified in the administrative citation.

d. The responsible person contesting the administrative citation shall be given the opportunity to testify and present witnesses and evidence concerning the administrative citation.

e. The administrative citation and any additional document submitted by the issuing officer/employee shall constitute prima facie evidence of the respective facts contained in those documents. Formal rules of evidence shall not apply.

f. Upon request, the recipient of an administrative citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the issuing officer/employee when issuing the citation. In addition, if the issuing officer/employee submits any additional written reports concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of said documentation also shall be served by mail on the person requesting the hearing.

g. The hearing officer may continue the hearing and request additional information from the issuing officer/employee or the recipient of the administrative citation prior to issuing a written decision.

(5) Hearing officer's decision. After considering all of the testimony and evidence submitted at the hearing, the hearing officer may immediately issue a verbal decision or may issue a written decision within ten (10) days of the hearing. The decision shall include the reasons for the decision and such decision shall be final. If the hearing officer determines that the administrative citation should be upheld, then the fine amount on deposit with the town shall be retained by the town. If the hearing officer determines that the administrative citation should be cancelled and the fine was deposited with the town, then the town shall promptly refund the amount of the deposited fine.

(6) Collection of unpaid fines. Failure to pay the assessed administrative fine within fifteen (15) days or such other time limit set forth in the administrative citation, and/or has not been successfully challenged by a timely appeal this obligation shall constitute a special assessment and/or lien against the real property on which the violation occurred. The special assessment and/or lien shall be imposed. Alternatively, the matter may be referred for collection, which includes but is not limited to the filing of a small claims court action.

(7) Right to judicial review.

Any person who is aggrieved by the decision of the hearing officer may obtain judicial review of such decision by filing an appeal to be heard in the Superior Court of California, County of San Bernardino within twenty (20) days of the decision or service thereof. Such appeal shall be filed in the San Bernardino County Superior Court 14455 Civic Drive, Victorville, and California and shall be completed pursuant to California Government Code section 53069.4. The appeal filed with the court must also contain a proof of service showing a copy of the appeal was served upon "Town of Apple Valley."

**15.01.010 Definitions** As used in this Chapter, Chapter 15.02 or Chapter 15.03 the following terms shall be defined as indicated:

- (a) Adequate food. Enough food so as to prevent emaciation, starvation, or obesity. Suitable for consumption by animals.
- (b) Animal. Any mammal, poultry, bird, reptile, fish or any other dumb creature.
- (c) Animal-At-Large. Any animal off the premises of the owner and/or not under the restraint of a person capable of controlling the animal, except dogs used for law enforcement purposes or for herding and control of livestock when under immediate command control.
- (d) Animal Menagerie. Any place where wild animals are kept or maintained for private or commercial purposes, including places where wild animals are boarded, trained or kept for hire.
- (e) Animal Shelter. Any facility operated by a humane society, or municipal agency or its authorized agents, for the purpose of impounding animals under the authority of this Chapter or State law for care, confinement, return to owner, adoption, or euthanasia.
- (f) Animal Control Officer or Humane Officer. Any person designated by the Town of Apple Valley as a law enforcement officer who is qualified to perform such duties under the laws of the State of California.
- (g) Assistance Dog. Are dogs specially trained and certified as guide dogs, signal dogs or service dogs.
- (h) Circus. A commercial variety show featuring animal acts for public entertainment.
- (i) Commercial Animal Establishment. Any pet shop, grooming shop, guard dog auction, riding school or stable, zoological park, circus, performing animal exhibition, or boarding or breeding kennel open to the general public. This definition does not apply to privately owned, not-for-hire ranches.
- (j) Commercial Horticulture. The growing of fruits, vegetables, flowers and ornamental plants for sale.
- (k) Domestic Animal. An animal which has historically and commonly been tamed for the use of man (e.g., horses, cows, sheep, dogs, pigs and cats).
- (l) Exotic Animal. Any animal belonging by nature or origin to another part of the world; foreign; strangely different and fascinating.
- (m) Guard dog. Any dog used for the purpose of guard duty.
- (n) Household pets. Small tamed, domestic animal housed and maintained inside a residence.
- (o) Guide Dog. Are dogs specially trained and certified as service dogs, signal dogs or assistance dogs.

- (p) Kennel or Cattery. Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.
- (q) Livestock. Domestic farm animals.
- (r) Minor. Not of legal age, or under 18 years old.
- (s) Owner. Any person who owns, keeps, or harbors one or more animals. An animal is deemed to be harbored if it is fed or sheltered for five (5) or more consecutive days. Person includes any person, firm, partnership, corporation, trust, and any association of persons.
- (t) Potable water. Water suitable for consumption by an animal.
- (u) Public Nuisance. Any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to enjoyment of life or property. The term “public nuisance animal” shall mean and include, but is not limited to, any animal that:
- (1) Is repeatedly found at large;
  - (2) Damages the property of anyone other than its owner;
  - (3) Molests or intimidates pedestrians or passersby;
  - (4) Chases vehicles;
  - (5) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
  - (6) Causes fouling of the air by odor by unclean or unmaintained enclosures and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
  - (7) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
  - (8) Is offensive or dangerous to the public health, safety or welfare by virtue of the number and/or types of animals maintained; or attacks other domestic animals; or
  - (9) Unspayed female in estrus left so as to attract stray males.
- (v) Responsible Person. Owner, person, individual, over 18 year old having control, custody, care, in charge of, or living at dog or animal’s residence.
- (w) Shelter. Adequate protection from the elements. That which covers, shields, or protects from inclement or adverse weather.
- (x) Small Domestic Animal. Mice, rats, hamsters, guinea pigs, turtles, snakes, tropical fish, canaries, parrots, parakeets and other similar animals commonly sold in pet stores and kept as household pets.
- (y) Service Dog. Are dogs specially trained and certified as guide dogs, signal dogs or assistance dogs.

- (z) **Tethering. Restraining an animal with the use of a rope, chain, or other device and attaching to a stationary object.**
- (aa) **Weaned Age.** Animals that are accustomed to food other than mothers' milk. Fowl are considered to be weaned at two (2) months of age.
- (bb) **Wild Animal.** Any wild, exotic, dangerous, or venomous animal including but not limited to mammals, fowl, fish or reptile, including those born or raised in captivity, except the following: domestic dogs (excluding hybrids with wolves, coyotes or jackals); domestic cats (excluding hybrids with ocelots or margays); farm animals, and horses, rodents and captive-bred species of common cage birds. **(Section 15.01.010 amended Ordinance #213 adopted 9-28-99)**

### **15.01.020 Mandatory Licensing**

- (a) It shall be unlawful for any person to keep, harbor, or have custody of any dog over four (4) months of age within the Town of Apple Valley without such dog having a current, valid license tag issued by the Town. Each dog shall have a current rabies vaccination as evidenced by a valid rabies certificate issued by the veterinarian who performed the vaccination as a requisite to licensing. A rabies vaccination certificate shall not be required if the license is obtained at the time the dog is vaccinated at a Town sponsored low-cost clinic.
- (b) **Licensing Guard Dogs**  
While a dog is being used as a guard dog within Apple Valley, it must have an Apple Valley dog license and the license tag must be securely fixed to the dog's collar regardless of where the owner resides and whether a license has been obtained for that jurisdiction.
- (c) Written application for licenses, which shall include the name and address of applicant, description of the animal, the appropriate fee, and rabies certificate issued by a licensed veterinarian or antirabies clinic showing a current vaccination, shall be made to the licensing authority.
- (d) If not revoked, licenses for the keeping of dogs shall be issued for a period of three (3) months or more, not to exceed three (3) years or the expiration date of the current rabies vaccination certificate.
- (e) Application for a dog license must be made within thirty (30) days after obtaining a dog or when the dog reaches the age of four (4) months. This requirement does not apply to a nonresident keeping a dog within the Town for not longer than thirty (30) days so long as a current license from another jurisdiction is continuously attached to the dog.
- (f) Upon acceptance of the license application and fee, the licensing authority shall issue a durable tag, stamped with an identifying number.
- (g) Dogs must wear identification tags or collars at all times when off the premises of the owners.

- (h) The licensing authority shall maintain a record of the identifying numbers of all tags issued and shall make this record available pursuant to the Government Code as a public record.
- (i) The licensing period shall run concurrently with the rabies vaccination certificate.
- (j) License Fees  
Each application for a license shall be accompanied by a license fee as specified in the Town of Apple Valley Fee Schedule, provided such license is obtained:
- (1) Within thirty (30) days of the expiration date of the current license;
  - (2) Within thirty (30) days after said dog attains the age of four (4) months;
  - (3) Within thirty (30) days after purchase or obtaining control, care or custody of a dog which previously attained the age of four (4) months, and provided further that proof of recent acquisition as indicated by the date of purchase receipt is shown at the time of application; or
  - ~~(4) Within fifteen (15) days after the date of establishing residency in Apple Valley, if said dog has no current license from another jurisdiction.~~
  - ~~(5) Within thirty (30) days of establishing residency. if said dog has a current vaccination and license from another jurisdiction. The owner must may transfer the dog license from another jurisdiction to the Town of Apple Valley.~~
- (k) No person may use any license for any animal other than the animal for which it was issued.
- (l) Penalty Fee  
Any person who obtains a license not in conformity with any of the provisions of this Chapter shall pay a penalty fee as specified in the Town of Apple Valley Fee Schedule in addition to the regular license fee.
- (m) Renewal of License  
Each Apple Valley dog license shall be valid for a period of one, two or three years from the date of issuance, depending on the fee paid, and shall be renewed prior to expiration or within a period of thirty (30) days after expiration. The procedure for the renewal of such license shall be in the same manner as the issuance of the original license.
- (n) Duplicate License Tag  
When the original license tag is lost, a duplicate tag shall be obtained upon submission to the Animal Control Office such proof as may be required. The cost of each duplicate tag shall be as specified in the Town of Apple Valley Fee Schedule.

(o) Wearing of Tag

It shall be the responsibility of every Apple Valley resident who owns, harbors, cares for, or has in custody a licensed dog, to securely attach or fasten the license tag to the dog's collar or harness so that such tag is worn by the dog at all times except while such dog remains indoors or in any enclosed yard or pen where the dog resides.

(p) Falsification of License Tag

It shall be unlawful for any person to place upon or attach to a dog any false, counterfeit or unauthorized tag for the purpose of evading the provisions of this Chapter.

(q) Unlawful Use of Tag

It shall be unlawful to attach a license tag on a dog to which said tag was not originally issued.

It shall be unlawful for an unauthorized person to remove from any dog, any collar or harness or other device to which is attached an Apple Valley license tag for the current year or remove such tag therefrom.

(r) Transfer of Ownership

If, during the licensing year, a licensed dog in the Town of Apple Valley is sold or title to the dog is otherwise transferred to a Town of Apple Valley resident, such new owner may apply to the Town for a transfer of such dog's license and pay a transfer fee as specified in the Apple Valley Fee Schedule. Upon receipt of the application fee, the Animal Control Department shall record the transfer of the license to the new dog owner.

**(Section 15.01.020 amended Ordinance #213 adopted 9-28-99)**

### **15.01.050 Animal Care**

Any domestic animal owner or person in responsible charge of any domestic animal shall provide potable water, adequate food and shelter for said animal. Water and shelter shall be available at all times. The shelter shall be constructed of new, refurbished or treated wood, durable plastic or other material sufficient to block the wind, rain, hail, sleet, or snow. The shelter shall provide sufficient shade from the sun and heat. The shelter shall be constructed in such a manner as to not cause injury.

### **15.01.055 Dog Tethering**

It shall be unlawful for any dog owner or person in responsible charge of any dog to tether said dog for longer than three (3) hours in a 24-hour period, or a time that is otherwise approved by animal control. No persons shall tether, fasten,

chain, tie or restrain a dog, or cause a dog to be tethered, fastened, chained, tied, or restrained to a dog house, tree, fence or any other stationary object. A dog may be attached to a running line, pulley, or trolley system. A dog may not be tethered by means of a choke collar or pinch collar.

A person may tether, fasten, chain, or tie a dog while engaged in camping or recreational activities, or completing a temporary task that requires the dog to be restrained, or engaged in an activity that is conducted pursuant to a valid license issued by the State of California if the activity for which the license is issued is associated with the use or presence of a dog. A dog may be tethered, fastened, chained, or tied while actively engaged in shepherding or herding cattle or livestock, or cultivating agricultural products.

#### **15.01.070 Control of Animals**

- (a) No person in Apple Valley, owning or having control of any animal, shall permit such animal to stray or run at large upon any public street, sidewalk, schoolground, public park, playground, place of public assembly or any other public place, or any un-enclosed private lot or other un-enclosed private place, or upon any private place or property without the consent of the owner or person in control thereof. Parkways comprising the area between the street and sidewalk shall be included as private property for purposes of this Chapter.
- (b) Any person who finds any animal which has strayed or is running at large upon his own property or any other place contrary to the provisions of this Chapter, may take possession of and hold same; provided, however, that he shall notify the Animal Control Office that he has such animal in his possession within twenty-four (24) hours after securing possession thereof, and give such Officer full information in regard to the animal, including a complete description of such animal and license number, if any, and surrender the same to the Animal Control Officer or Department upon demand.
- (c) No person in Apple Valley may lawfully bring his dog out of his premises or property unless:
  - (1) Said dog is restrained by a substantial leash not to exceed six (6) feet in length and is in the charge of a person competent to restrain such dog; or
  - (2) Said dog is properly restrained and enclosed in a car, cage or similar enclosure; or
  - (3) Said dog is used for law enforcement purposes or for herding and control of livestock when under immediate command control.
- (d) Any dog found running at large, running loose or unrestrained may be impounded by the Animal Control Officer for a period of ~~one hundred twenty (120) hours~~ **in accordance with California Food and Agriculture**

**Code §31108.** Any unclaimed dogs shall then be disposed of in accordance with this Chapter.

- (e) There shall be a reclaiming fee for all impounded dogs, as set forth in the Town of Apple Valley Fee Schedule. **(Section 15.01.070 amended Ordinance #213 adopted 9-28-99)**

### **15.01.095 Mandatory Spay/Neuter of Adopted Dogs and Cats**

Any dog or cat adopted from Town of Apple Valley Animal shelter shall be spayed or neutered at the time of adoption. If a veterinarian licensed to practice veterinary medicine in this state certifies that a dog or cat is too sick or injured to be spayed or neutered, or that it would be otherwise detrimental to the health of the dog or cat to be spayed or neutered, the adopter or purchaser shall pay a deposit not more than stated in Food and Agricultural Code 30503 – Spay/Neuter of Dogs and Food and Agricultural Code 31751.3 Cats: Spay/Neuter Deposit Required. The deposit shall be temporary, and shall only be retained until the dog or cat is healthy enough to be spayed or neutered, as certified by a veterinarian licensed to practice veterinary medicine in this state. The dog or cat shall be spayed or neutered within 14 business days of said certification. The adopter or purchaser shall obtain written proof of spaying or neutering from the veterinarian performing the operation. If the adopter or purchaser presents proof of spaying or neutering to Town of Apple Valley Animal shelter within 30 business days of obtaining proof, the adopter or purchaser shall receive a full refund of the deposit. If the adopter or purchaser fails to have the dog or cat spayed or neutered within 14 business days of the dog or cat being certified healthy by a veterinarian licensed to practice veterinary medicine in this state, or fails to provide proof of continued illness or injury within 6 months of said adoption, the dog or cat may be impounded by Town of Apple Valley Animal Control officers and/or a citation fee not to exceed Municipal Code section 1.01.200(e) shall be written.

**15.01.110 Annual Permit/Business License.** No person shall, within the Town of Apple Valley, conduct or operate any kennel, pet shop, pet grooming parlor, public aquarium, game bird farm, petting zoo, wild animal breeding or boarding facility, animal menagerie, **excessive animal keeping and/or raising**, or other commercial animal facility without first obtaining an annual permit or license under this section and business license from the Town of Apple Valley as required under Chapter 5.02 of the Municipal Code. Any such establishment shall also conform to the Town Development Code, and all other applicable Town ordinances.

(a) Application for a License to Operate

An application for a license to operate a kennel, pet shop, pet grooming parlor, public aquarium, game bird farm, petting zoo, wild animal breeding or boarding facility, animal menagerie, or other commercial animal facility shall be made on a form provided by the Town.

(b) General Regulations

Every person within the Town of Apple Valley who owns, conducts, manages, or operates any animal establishment for which a license is required by this Chapter shall comply with each of the following conditions:

- (1) Housing facilities for animals shall be structurally sound and shall be maintained in good repair to protect animals from injury and restrict entrance of other animals;
- (2) All animals and all animal buildings or enclosures shall be maintained in a clean and sanitary condition;
- (3) All animals shall be supplied with sufficient good wholesome food and water as often as the feeding habits of the respective animals require; access to potable water at all times; and access to adequate shelter at all times to protect from the elements;
- (4) Animal buildings and enclosures shall be so constructed and maintained as to prevent the escape of animals;
- (5) All reasonable precautions shall be taken to protect the public from the animals and animals from the public;
- (6) Every building or enclosure wherein animals are maintained shall be properly ventilated to prevent drafts and to remove odors; heating and cooling shall be provided as required according to physical needs of the animals;
- (7) All animal rooms, cages, and runs shall be of sufficient size to provide adequate and proper housing for animals kept therein;
- (8) All animal runs shall be of approved construction and shall be provided with adequate waste and manure disposal and for drainage into an approved sewer or individual sewer disposal installation;
- (9) Dogs shall not be tethered, fastened, chained, tied or otherwise restrained to a dog house, tree, fence, or any other stationary object longer than three (3) hours in a 24-hour period or a time that is otherwise approved by animal control. A running line, pulley or trolley system may be used. A dog may not be tethered by means of a choke collar or pinch collar.
- (10) Every precaution shall be taken to avoid the production of nuisances and any hazard to the public health as a result of the presence of wild, dangerous, and/or exotic animals;
- (11) Every violation of applicable regulation shall be corrected within a reasonable time to be specified by the Animal Control Officer.

(12) Failure of the applicant for said license to comply with any of the foregoing conditions shall be deemed just cause for the denial of any license, whether original or renewal.

(c) Expiration of License

Any license issued under this Chapter shall expire at the end of three years or less, depending on the fee paid.

(d) Renewal of License

The procedure for the renewal of any license shall be subject to the same conditions and shall be done in the same manner as the issuance of an original license.

(e) Inspection

The Animal Control Officer shall have the authority to enter upon any area or premises at any reasonable time to enforce the provisions of this Chapter.

(f) Revocation of License Or Animal Control Permit.

The Animal Control Officer shall inspect the animal establishment annually. The Animal Control Officer shall investigate a complaint of any animal establishment. The Animal Control Officer or Hearing Officer may revoke any license or Animal Control Permit issued pursuant to this Chapter, whenever he shall determine from an inspection or substantiated complaints that any animal establishment fails to meet all conditions contained in this Chapter or for any other violation of applicable regulations.

~~Any revocation of a license or Animal Control Permit shall be effective until all conditions of this Chapter have been met and complied with to the satisfaction of the Animal Control Officer and written notice of this fact has been given to the licensee. Upon receipt of notice of compliance the license or Animal Control Permit shall be deemed in full force and in effect for the remainder of the original term for which it was issued.~~ may be permanent or temporary. Upon reinstatement, the license or permit shall be in effect for the remainder of the original term for which it was issued.

(g) Licenses or Animal Control Permits.

Pursuant to this chapter, licenses and Animal Control Permits shall not be transferable except when original property including animal establishment within such property is sold by owner to another party and provided further that such animal establishment shall remain within the confines of the original property. **(Section 15.01.110 amended Ordinance #213, adopted 9-28-99).**

(f) Administrative Hearing.

Upon suspicion or report of an animal license or permit violation, the Town of Apple Valley may initiate an administrative hearing. The Hearing Officer shall hear and consider all relevant evidence, objections, or portents, and shall receive testimony under oath. The Hearing Officer may assess the

owner or property owner for any costs of administration incurred by the Town of Apple Valley. The decision of the Hearing Officer shall be final.

**15.01.125 Animal Limitations.**

- (a) All animal keeping and animal density is subject to limitations shown in Table 15.01.125 A.  
(TABLE NOT INCLUDED IN STAFF REPORT)
- (b) Offspring. The offspring born of such animals which increases the total number upon the premises beyond the numbers permitted shall be removed from the premises no later than thirty (30) days from the Wean Date. All Fowl shall be removed by three (3) months of age.
- (c) Animal Control Permit. Dogs and cats may be kept in excess of the number and distribution permitted by Title 15.01.125 Table A by applying to the Animal Control Department for the required permit.
- (d) Bee Hives. Bee hives shall be permitted in the R-VLD, R-A, and R-LD zoning districts on lots of two and one-half (2½) acres or larger subject to the requirements of this section. All bee keeping shall be subject to the following requirements:
  - 1. Bee hives and their water source shall be placed a minimum of one hundred (100) feet from any property line and a minimum of four hundred (400) feet from any street, road or highway, any public school, park, established bus or transportation stop or from any dwelling or place of human habitation other than that occupied by the owner or caretaker of the apiary;
  - 2. A continuous fresh water source shall be provided on-site prior to the installation of the bee hives; and
  - 3. A maximum of eight (8) bee hives per two and one-half (2½) acres is allowed.
- (e) **4H/FFA Animal Raising and/or Keeping.** 4-H and/or FFA animal raising and/or keeping shall be permitted in accordance with the Animal Limitations Table (a). A signed application shall be submitted to the Town of Apple Valley by the animal owner or keeper. An Animal Control Officer shall inspect said property and written approval granted prior to the acquisition of a 4-H and/or FFA animal.

Section 3. Except as expressly amended and repealed hereby, all other provisions of Title 1 and Title 15 of the Town of Apple Valley Municipal Code shall remain in effect.

Section 4. Invalidation. The amendment by this ordinance of Chapters 1.01.200 and Title 15 of the Town of Apple Valley Municipal Code as previously in effect shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to the Chapter while the same was in effect.

Section 5. Effective Date. This ordinance shall become effective thirty days from and after its adoption.

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.

APPROVED and ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this 14 day of October, 2008.

\_\_\_\_\_  
Timothy J. Jasper, Mayor

Attest:

\_\_\_\_\_  
La Vonda Pearson, Town Clerk

Approved as to form:

Approved as to content:

\_\_\_\_\_  
John Brown, Town Attorney

\_\_\_\_\_  
Frank W. Robinson, Town Manager