

Summary Statement
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In Apple Valley Municipal Code §1.08.050 Citations in Lieu of Immediate Arraignment, included is a section that explains the procedure to have citations filed in court. The process states “any such officers or employees shall be appropriately instructed to deposit executed citations or notices with the police department for filing with the court, after review for legal sufficiency.” This section was adopted in 1988 and was the appropriate procedure at the time as code enforcement staff was contracted by the Town. The long existing practice has been that legal sufficiency is determined by a staff supervisor and the filing process is handled by Town staff. This process is approved by the Courts.

The recommended Municipal Code amendments will place the Municipal Code in alignment with present acceptable Court practices and procedures.

ORDINANCE NO. 404

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING CHAPTER 1.01.200 VIOLATIONS; AND CHAPTER 1.08.050 CITATIONS IN LIEU OF IMMEDIATE ARRAIGNMENT OF THE APPLE ALLEY MUNICIPAL CODE

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

Section 1. Section 1.01.200 (b) of Title 1 of the Town of Apple Valley Municipal Code is hereby amended to read as follows:

1.01.200 (b) Notwithstanding the provisions of subsection (a), either the Town attorney, his or her designee, or any officer issuing a citation hereunder, may issue the citation as an infraction. Further, in the discretion of the Town attorney, his or her designee, or any officer, any complaint or citation issued as a misdemeanor may be reduced to an infraction.

Section 2. Section 1.08.050 of Title 1 of the Town of Apple Valley Municipal Code is hereby amended to read as follows:

1.08.050 Issuance of citations by designated officers and employees. Officers and employees of the Town who have the discretionary duty to enforce a statute or ordinance may, pursuant to Section 836.5 of the Penal Code and subject to the provisions of this Section, arrest a person without a warrant whenever any such officer or employee has reasonable use to believe that the person to be arrested has committed an offense in the officer's or employee's presence which he or she has the discretionary duty to enforce, and to issue a notice to appear, and to release such person on his or her written promise to appear in court, pursuant to Section 853.6 of the Penal Code. No officer or employee shall be allowed by his or her superior to exercise the arrest and citation authority conferred in this Section unless such officer or employee is within a classification of Town officers and employees designated by resolution of the Town Council to exercise such arrest and citation authority as to specified violations. The Town Manager shall establish and cause to be administered a special enforcement training program designated to instruct each officer or employee who will exercise such arrest and citation authority, regarding the provisions of the statutes and ordinances to be enforced, the evidentiary prerequisites to proper procedures for making arrests or otherwise prudently exercising such arrest and citation authority, and the legal and practical ramifications and limitations attendant thereto. Any such officers or employees shall be appropriately instructed to deposit executed citations or notices with the court for filing. **(Ord. #3, 1988)**

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

Section 4. Invalidation. The amendment by this ordinance of Chapter 1.01.200 and Chapter 1.08.050 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 9th day of March, 2010.

Peter Allan, Mayor

Attest:

La Vonda Pearson, Town Clerk

Approved as to form:

Approved as to content:

John Brown
Town Attorney

Frank Robinson
Town Manager