



TOWN OF APPLE VALLEY PLANNING COMMISSION

Get a Slice of the Apple.

Staff Report

AGENDA DATE:	May 15, 2013
CASE NUMBER:	Development Code Amendment No. 2013-002
APPLICANT:	Town of Apple Valley
PROPOSAL:	A request to consider an amendment to Title 9 “Development Code” of the Town of Apple Valley Municipal Code amending subsection “B” of Table 9.28.050-A “Permitted Uses” within Section 9.28, “Residential Districts” as it relates to Animal Keeping Permits within the community.
LOCATION:	Town-wide
EXISTING GENERAL PLAN DESIGNATIONS:	All Residential and Mixed-Use Land Use Designations.
EXISTING ZONING:	All Residential and Mixed-Use Zoning Designations.
ENVIRONMENTAL DETERMINATION:	Staff has determined that 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.
PROJECT PLANNER:	Ms. Pam Cupp, Associate Planner
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2013-04

BACKGROUND AND ANALYSIS

As Animal Services modifies existing animal keeping procedures and/or implements new programs, it becomes necessary to amend the Development Code to ensure consistency throughout the Municipal Code. Proposed Development Code Amendment No. 2013-002 will address Animal Services programs recently put into operation. The proposed amendment will not change any existing permitted uses; however, the amendment will clarify existing permitted uses that now require the review and approval of Animal Keeping Permits.

The Town of Apple Valley has entered into a contract with the County of San Bernardino to provide specific animal related services. Effective January 1, 2013, animals from the High Desert/Victor Valley unincorporated regions of San Bernardino County are sheltered at the Town of Apple Valley Municipal Animal Shelter. Additionally, the Town's Animal Services Department will now conduct inspections and issue permits for all animal related activities previously governed by the County. Activities within residential zones that were once permitted now require review and approval of an Animal Keeping Permit by Animal Services. It is recommended that the animal activities requiring review and approval of be identified within Table 9.28.050-A "Permitted Uses" of the Development Code.

At the March 26, 2013 Town Council meeting, the Council authorized the implementation of "Operation Cat Nip", which is a pilot program for the trap-neuter-return (TNR) of feral cats within the community. The goal of the TNR program is to reduce the numbers of cats impounded and euthanized annually at the Town's Municipal Shelter. The program will focus upon specific areas within the community that have reported problematic cat populations. Once it has been determined that there is an established cat colony, a property owner with an approved Animal Keeping Permit will receive assistance with trapping the cats, vaccination, sterilization and return of the cats to the location of the initial trapping. To ensure the Town's ability to prevail should the program be challenged, cat colonies must be formally recognized as permitted within all residential zones.

Listed below is the suggested corrective language. Within this material, additions are noted in **bold underlined**. It is recommended that Subsection "B" of Table 9.28.050-A "Permitted Uses" within Section 9.28 "Residential Districts" of the Town of Apple Valley Development Code be amended as follows:

Table 9.28.030-A Permitted Uses

TYPE OF USE	R-VLD	R-A	R-LD	R-E	R-E ¾	R-EQ	R-SF	R-M	MHP	M-U	PRD ²
B. Agricultural and Animal Uses											
1. 4-H or FFA animal raising and/or keeping ¹³	P	P	P	P	P	P	P	-	-	-	SUP
2. All types of horticulture ⁴	P	P	P	P	P	P	P	-	-	-	CUP
3. Keeping of bee hives	1 hive per 13500 sf	1 hive per 13500 sf	1 hive per 13500 sf	-	-	-	-	-	-	-	-
4. Equestrian Stables, commercial ¹³	CUP	CUP	CUP	CUP	CUP	CUP	-	-	-	-	-
5. Equestrian Stables, private	P	P	P	P	P	P	-	-	-	-	-
6. Horses and other equine	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	-	-	-	-	P
7. Farm cattle and other bovine	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per lot	1 per lot	1 per lot	-	-	-	-	-
8. Llamas and alpaca	1 per 4500 sf	1 per 4500 sf	1 per 9000 sf	1 per lot	1 per lot	1 per lot	-	-	-	-	P
9. Sheep, goats and other ovine	1 per 3000 sf	1 per 3000 sf	1 per 4500 sf	2 per lot	2 per lot	2 per lot	-	-	-	-	P
10. Dogs and cats as follows:											
Up to 1 dog or 1 cat	-	-	-	-	-	-	-	P ⁵ -	P ⁵ -	P ⁵ -	-
Up to 4 dogs ^{6, 7, 12}	P	P	P	P	P	P	P	-	-	-	P
Up to 4 cats ^{7, 12}	P	P	P	P	P	P	P	-	-	-	-
11. Small domestic animals kept as household pets	P	P	P	P	P	P	P	P	P	P	P
12. Exotic Animals	SUP	SUP	SUP 2 max	SUP 2 max	SUP 2 max	SUP 2 max	-	-	-	-	P
13. Exotic Birds	SUP	SUP	SUP 2 max	SUP 2 max	SUP 2 max	SUP 2 max	-	-	-	-	P
14. Poultry and other fowl ⁸	P	P	1 per 1800 sf	5 max + 1 male	5 max + 1 male	5 max + 1 male	5 max + 1 male	-	-	-	P
15. Racing and/or Homing Pigeons ¹¹	P	P	P	P	P	P	P	-	-	-	-
16. Ostriches, emus, rheas, kivis or other ratite	1 per 9000 sf	1 per 3000 sf	1 per 9000 sf	-	-	-	-	-	-	-	-

TYPE OF USE	R-VLD	R-A	R-LD	R-E	R-E ¾	R-EQ	R-SF	R-M	MHP	M-U	PRD ²
17. Pigs or other swine	P	P	1 per 9000 sf	1 per lot	-	-	-	-	-	-	-
18. Rabbits	P	P	1 per 1800 sf	Total of 6	Total of 6	Total of 6	Total of 6	-	-	-	P
19. Kennels, non-commercial ¹³	CUP	CUP	CUP	CUP	CUP	CUP	-	-	-	-	-
20. Sale of agricultural products	P	P	P	-	-	-	-	-	-	-	P

1. CUP: Conditional Use Permit
 P: Permitted Uses
 SUP: Special Use Permit
 (-): Denotes uses are prohibited
2. Uses permitted in a PRD development shall be consistent with the approved PRD. Uses not prescribed by an approved PRD shall be prohibited.
3. Requires Planning Commission approval of a Development Permit.
4. These uses are permitted subject to compliance with the provisions of Chapter 9.19, Home Occupation Permits, of this Code.
5. Keeping of two (2) pets consisting of one (1) dog or one (1) cat, or any combination thereof **and cat colonies**, requires an Animal Keeping Permit and that all animals be spayed or neutered. Pot belly pigs are not permitted.
6. Female or neutered male pot belly pigs (not to exceed four {4}) are permitted in accordance with Section 9.29.030 of the Apple Valley Municipal Code.
7. Excess of four (4), not to exceed a combined total of eight (8) dogs and cats **and cat colonies**, requires an Animal Keeping Permit and that all animals be spayed or neutered.
8. Except peafowl are permitted only in R-A.
9. Requires a Home Occupation Permit.
10. Only permitted when located within 1/8 mile of the affiliated school.
11. Homing and/or racing pigeons are permitted subject to compliance with the provisions of Section 9.29.030 “Animal Keeping and Agricultural Uses in Residential Districts” of this Code.
12. Single-Family Residences within the R-M Zoning District shall be subject to the same maximum number of dogs and cats as a single-family residence within the R-SF Zoning.
13. **Use requires an Animal Keeping Permit.**

FINDINGS:

An amendment to the Development Code requires that the Planning Commission address two (2) required “Findings”, as listed within Development Code Section 9.06.060. For Commission consideration, the required Findings are listed below, along with a comment addressing each. If the Commission concurs with these comments, they may be adopted and forwarded to the Council for its consideration of the Development Code Amendment. If the Commission wishes modifications to the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included into the information forwarded to the Council for consideration.

- A. The proposed amendment is consistent with the General Plan; and,

Comment: The General Plan provides the basic framework for land development within the Town of Apple Valley, with the Development Code furthering the intent and guidance of the General Plan by establishing the land uses permitted within the various land use districts, as well as the procedures the specific land use processes which fulfill the Plan’s Goals and Policies. The Development Code contains specific animal keeping provisions for residential zones. Development Code Amendment No. 2013-003 strengthens the enforceability of the animal keeping guidelines by ensuring specific animal uses become subject to Animal Keeping Permits, which are monitored and maintained by the Animal Services Division.

- B. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: Development Code Amendment No. 2013-002 will modify the Town’s Development Code to include Animal Keeping Permits as a requirement for certain animal related activities within residential zoning districts. Animal Services will maintain and monitor permit holders, which will significantly reduce the potential for any negative impacts to surrounding residents; therefore, Development Code Amendment No. 2013-002 will not be detrimental to the public health, safety or welfare.

NOTICING

Development Code Amendment No. 2013-002 was advertised as a public hearing in the Apple Valley News newspaper on May 3, 2013.

ENVIRONMENTAL REVIEW

Staff has determined that 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.

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2013-04, forwarding a recommendation that the Town Council amend Title 9 “Development Code” of the Town of Apple Valley Municipal Code as outlined within the staff report.

Prepared By:

Reviewed By:

Pam Cupp
Associate Planner

Lori Lamson
Assistant Director of Community Development

Attachment: Planning Commission Resolution No. 2013-04

PLANNING COMMISSION RESOLUTION NO. 2013-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL FIND THAT DEVELOPMENT CODE AMENDMENT NO. 2013-002 IS EXEMPT FROM ENVIRONMENTAL REVIEW AND AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING TABLE 9.28.050-A “PERMITTED USES” AS IT RELATES TO THE USE OF ANIMAL KEEPING PERMITS WITHIN THE TOWN OF APPLE VALLEY.

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, 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 March 26, 2013, the Town Council authorized the implementation of "Operation Cat Nip", which is a pilot program for the trap-neuter-return of feral cats within the community; and

WHEREAS, specific changes are proposed to Subsection “B” of Table 9.28.050-A “Permitted Uses” within Section 9.28 “Residential Districts”, as it relates to the use of Animal Keeping Permits within the Town of Apple Valley; and

WHEREAS, on May 3, 2013, Development Code Amendment No. 2013-002 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined 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 may have a significant effect on the environment, the activity is EXEMPT from further CEQA review; and

WHEREAS, on May 15, 2013, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2013-002, receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2013-002 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.

NOW, THEREFORE, BE IT RESOLVED that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, does hereby

resolve, order and determine as follows and recommends that the Town Council make the following findings and take the following actions:

Section 1. Find that the changes proposed by Development Code Amendment No. 2013-002 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. 2013-002 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend Paragraphs B1 and B4; Footnotes 5 and 7; and insert new Footnote 13 on Table 9.28.050-A "Permitted Uses" within Section 9.28 "Residential Districts", of the Town of Apple Valley Development Code to read as follows:

“Table 9.28.030-A Permitted Uses

TYPE OF USE	R-VLD	R-A	R-LD	R-E	R-E ¾	R-EQ	R-SF	R-M	MHP	M-U	PRD ²	
B. Agricultural and Animal Uses												
1. 4-H or FFA animal raising and/or keeping ¹³	P	P	P	P	P	P	P	-	-	-	SUP	
2. All types of horticulture ⁴	P	P	P	P	P	P	P	-	-	-	CUP	
3. Keeping of bee hives	1 hive per 13500 sf	1 hive per 13500 sf	1 hive per 13500 sf	-	-	-	-	-	-	-	-	
4. Equestrian Stables, commercial ¹³	CUP	CUP	CUP	CUP	CUP	CUP	-	-	-	-	-	
5. Equestrian Stables, private	P	P	P	P	P	P	-	-	-	-	-	
6. Horses and other equine	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	-	-	-	-	P	
7. Farm cattle and other bovine	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per lot	1 per lot	1 per lot	-	-	-	-	-	
8. Llamas and alpaca	1 per 4500 sf	1 per 4500 sf	1 per 9000 sf	1 per lot	1 per lot	1 per lot	-	-	-	-	P	
9. Sheep, goats and other ovine	1 per 3000 sf	1 per 3000 sf	1 per 4500 sf	2 per lot	2 per lot	2 per lot	-	-	-	-	P	
10. Dogs and cats as follows: Up to 1 dog or 1 cat Up to 4 dogs ^{6, 7, 12} Up to 4 cats ^{7, 12}	- P P	- P P	- P P	- P P	- P P	- P P	- P P	- P P	P ⁵ - - -	P ⁵ - - -	P ⁵ - - -	- P P
11. Small domestic animals kept as household pets	P	P	P	P	P	P	P	P	P	P	P	
12. Exotic Animals	SUP	SUP	SUP 2 max	SUP 2 max	SUP 2 max	SUP 2 max	-	-	-	-	P	
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Development Code Amendment No. 2013-002
 May 15, 2013 Planning Commission Meeting

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17. Pigs or other swine	P	P	1 per 9000 sf	1 per lot	-	-	-	-	-	-	-
18. Rabbits	P	P	1 per 1800 sf	Total of 6	Total of 6	Total of 6	Total of 6	-	-	-	P
19. Kennels, non-commercial ¹³	CUP	CUP	CUP	CUP	CUP	CUP	-	-	-	-	-
20. Sale of agricultural products	P	P	P	-	-	-	-	-	-	-	P

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12. Single-Family Residences within the R-M Zoning District shall be subject to the same maximum number of dogs and cats as a single-family residence within the R-SF Zoning.
13. Use requires an Animal Keeping Permit.

*Development Code Amendment No. 2013-002
May 15, 2013 Planning Commission Meeting*

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 15th day of May, 2013.

Chairman

ATTEST:

I, Debra Thomas, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing Planning Commission Resolution No. 2013-04 was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 15th day of May, 2013, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Debra Thomas, Planning Commission Secretary