



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** May 28, 2013

From: Jim Andersen, Code Enforcement Manger **Item No:** 10
Code Enforcement Department

Subject: DEFRAYING CODE ENFORCEMENT COSTS

T.M. Approval: _____

Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

Direct staff to implement Apple Valley Municipal Code section 1.01.260.

SUMMARY:

The purpose of this proposal is to help relieve the taxpayers who may never directly use the services of code enforcement and to shift some of the actual costs to those residents who not only are creating and/or maintaining a public nuisance but additionally fail to remedy the violation within the standard period of time. A person's failure to abate a nuisance in a timely manner causes extra staff time and resources to be used to ensure compliance is gained. The Apple Valley Municipal Code has an existing code section in place allowing for the actual costs and expenses required for multiple inspections and extra staff time to be charged to those individuals.

BACKGROUND:

The code enforcement function exists to provide a service designed to benefit all of the residents within the Town. The primary mission of code enforcement is to protect the health safety and welfare of the entire community and to help maintain property values throughout Town. Protecting and maintaining property values is primarily done by reducing visual blight on properties.

Many residents within the Town will never have a Code Enforcement Officer at their door advising them they are in violation of a regulation. Additionally, most of the people who have a Code Enforcement Officer come to their house for a violation correct the violation within the given amount of time.

However, there are some residents who when notified that a code violation exists and is being maintained on their property, make little or no effort to correct the violation within the given amount of time. Additional follow up inspections and resources then have to be used to ensure the violations are removed. Some code enforcement cases can go on for several months taxing the division's limited resources. In addition, if the case was initiated subject to a complaint, Town staff also must spend additional time and resources to explain to the complainant the reasons for a delayed remedy.

Under State Health and Safety Code section 17951 (b), it provides an avenue for local governments to defray the costs of enforcement.

The Town of Apple Valley has the appropriate language in the existing Municipal Code section listed below intended to allow for recovery of code enforcement costs.

1.01.260 Nuisances: Recovery of abatement expenses. (a)

whenever any person creating, causing, committing, or maintaining a public nuisance, as referred to in Section 1.01.250 of this Chapter, or other public nuisance, as defined under State law or other ordinance or regulation, has been given notice, by or on behalf of the Town Attorney or by any other Town officer, employee or policing agent authorized to give such notice, to abate such nuisance or cease and desist from continuing such nuisance or violation of law, and such person who was given notice fails, refuses, or neglects to comply with the notice within the time specified therein, or if such a time is not specified, then within a time reasonably sufficient to enable such compliance, such noncomplying person shall be liable to the Town for any and all costs and expenses to the Town involved in thereafter abating the nuisance and in obtaining compliance with or enforcing the law as referred to or encompassed in the said notice.

(b) Costs and expenses, as referred to in Subsection (a) of this Section may include, but are not limited to, any and all direct costs and expenses related to such things as personnel salaries and benefits, operational overhead, rent, interest, fees for experts or consultants, legal costs or expenses, including attorney's fees, claims against the Town arising as a consequence of the nuisance or violation, and procedures associated with collecting moneys due hereunder.

(c) The provisions of Subsection (a) of this Section shall also apply to any person who received a notice, as specified therein, and thereafter the nuisance or violation was abated, but such person subsequently allowed or was responsible for a recurrence of the nuisance or violation.

(d) The liability of any person for the payment of the costs and expenses, not to exceed One Hundred Dollars (\$100), provided for in Subsection (a) of this Section may be waived in whole or in part by the Town Attorney in any case wherein he determines, in his sole discretion, that the failure or refusal of such person to comply with the notice therein involved was based upon a good faith and bona fide issue of law or fact specially involved in the circumstances of the case. Any determination or decision of the Town Attorney in this regard shall be final and conclusive.

(e) Moneys due to the Town pursuant to this Section may be recovered in an appropriate civil action. Alternatively, such liability may be enforced by special assessment proceedings against the parcel of land upon which the nuisance existed, which proceedings may be conducted in a manner substantively similar to proceedings described in Sections 39574 et seq. of the Government Code of the State relating to weed abatement assessments.

Defraying Enforcement Costs Overview

- Code Enforcement responds to a property and discovers a violation, a notice is issued and a time frame is given (typically 14 days).
- On the follow up date another inspection is conducted.
- If the violation is abated, the case is closed, no further action is needed and there is no cost to the resident.
- If the owner and or tenant failed to remedy the violation within the given time frame causing further resources, inspections, and staff time to be used, the property owner, tenant, or property owner and tenant will be responsible to pay the Town for all of the staff time costs and expenses spent on the case to bring the offending property into compliance.
- The amount charged to the resident and or property owner will be the fully burdened rate for staff.
 - The fully burdened rate of a Code Enforcement Officer in the middle of the pay range is currently \$50.43 per hour.
 - The fully burdened rate of a Code Enforcement Technician in the middle of the pay range is currently \$40.98 per hour.

FISCAL IMPACT:

Using prior years as a model, the costs defrayed with this program are estimated between \$170,000 and \$220,000 annually.