

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

ADOPT 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 its October 14, 2008 meeting, the Town Council reviewed and introduced Ordinance No. 388 as it relates to amending Chapter 1.01.200 General Provisions Violations and adding section 1.010.205 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. As part of the requirements to adopt a new Ordinance, Ordinance No. 388 has been scheduled for adoption at the October 28, 2008 Town Council meeting.

Recommended Action:

Adopt Ordinance No. 388

Proposed by: Municipal Services Department

Item Number _____

T. M. Approval: _____ Budgeted Item Yes No N/A

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 of the 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 have 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 and

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

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

Section 1. Section 1.01.200 of Title 1 is amended and 1.01.205 is added to read as follows;

1.01.200 Violations.

(a) No person shall violate any of the provisions or fail to comply with any of the requirements of this code. 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, shall be guilty of a misdemeanor, except as authorized in subsection (b), and upon conviction thereof, the penalty shall be a fine of not more than one thousand dollars (\$1,000), or imprisonment in the County jail for a period of not more than six months or by both fine and imprisonment. Each such offense shall be a separate offense for each and every day during any portion of which any violation of any provision of this Code, or any provision of any code adopted by reference by this Code, or of any other Town ordinance, is committed, continued, or permitted by such person, and may be punished accordingly.

(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 or his or her designee, any complaint or citation issued as a misdemeanor may be reduced to an infraction.

(c) In addition to the penalties described in subsections (a) and (b) of this section, any person found guilty of a violation of a title, chapter or section of this code shall be ordered to comply with the requirements of such title, chapter or section of this code.

(d) In addition to the penalties provided in subsections (a) and (b) of this section, any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance and may be, by this Town, summarily abated as such.

(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 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 first offense.”
- (f) Each administrative citation shall contain the following information.
- (1) Name of the responsible person for the violation of 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 shall 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 be amended from time to time.

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."

Section 2. Amending Sections 15.01.010, amending section 15.01.020, adding section 15.01.050, adding section 15.01.055, adding section 15.01.095, amending section 15.01.110 and amending section 15.01.125 of Title 15 to read as follows:

TITLE 15

ANIMALS

Chapters:

- 15.01 Animal Control**
- 15.02 Rabies Vaccination (Biting and Bitten Animals)**
- 15.03 Potentially Dangerous or Vicious or Public Nuisance Animal Hearings**

CHAPTER 15.01 ANIMAL CONTROL

Sections:

- 15.01.010 Definitions
- 15.01.020 Mandatory Licensing
- 15.01.030 Impoundment of Animals - Persons Charged with Enforcement
- 15.01.040 Disposition of Dead Animals
- 15.01.060 Animal Waste
- 15.01.070 Control of Animals
- 15.01.080 Animal Noise
- 15.01.090 Female Dogs and Puppies
- 15.01.100 Wild, Exotic, or Nondomestic Animals in Captivity
- 15.01.110 Annual Permit/Business License
- 15.01.120 Enforcement
- 15.01.125 Animal Limitations
- 15.01.130 Penalty Provisions
- 15.01.140 Abatement of Public Nuisance
- 15.01.145 Notification of Nuisance
- 15.01.150 Appeal Procedure Through A Hearing Officer
- 15.01.155 Decision by Hearing Officer
- 15.01.160 Hearing Procedures
- 15.01.165 Judicial Action/Abatement
- 15.01.170 Attorney Fees
- 15.01.175 Lien for Costs
- 15.01.180 Civil Action to Collect

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 thirty (30) days of establishing residency. The owner 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)**

15.01.030 Impoundment of Animals - Persons Charged with Enforcement

- (a) Animal Control Officers, Humane Officers, Police Officers, The Town Manager and any person designated for that purpose by the Town Manager of Apple Valley are hereby authorized and empowered to:
 - (1) Capture, receive, take-up and impound:

- (a) Any dog or other animal found running at large in violation of this Chapter or any law of the State of California;
 - (b) Any dog or other animal which is molesting any person;
 - (c) Any dog or other animal which is molesting or harassing animals, birds, or pets upon the premises of any person;
 - (d) Any animal, including wild animals or birds, being kept or maintained within a person's premises in violation of this Chapter or of any law of the State of California;
 - (e) Stray, unwanted or abandoned animals;
 - (f) Dogs or other animals which are unlicensed and/or unvaccinated in violation of this Chapter or other applicable laws;
 - (g) Animals delivered for disposition, after the owner has paid the required fee and released all title and interest in the animal by signing the form provided by the Animal Control Officer for this purpose; or
 - (h) Animals for which the owner or custodian is unable to care because of imprisonment, illness, or other preventing contingency, or in cases in which the owner or custodian cannot be found;
- (2) Regularly and adequately feed, water and otherwise care for all dogs or other animals impounded under the provisions of this Chapter, or to provide for such feeding and watering;
 - (3) Receive, take-up, and impound any sick or injured dog or other animal whose owner is unknown or unidentified; to humanely destroy any such injured dog or other animal, when, in the opinion of the Officer or a licensed veterinarian, such destruction is necessary and humane; and to make proper disposition of such animal. Should an injured or destroyed animal be an identified animal, then the owner of said animal shall be immediately notified of its injury or destruction.
 - (4) Do and perform any other acts necessary to carry out the provisions of this Chapter and of the laws of the State of California relating to dogs or other animals.
- (b) The officer having custody of any impounded dog or other animal may, by humane methods, summarily destroy the same if:
 - (1) The dog or other animal is suffering from any incurable or contagious disease as certified to by a licensed veterinarian.
 - (2) It is an unlicensed vicious dog or other animal.
 - (c) Any Officer having in his custody any unlicensed, impounded dog or other animal not suffering from any infectious or communicable disease may release the same to any adult person who will pay the pound fees and charges as specified in the Town of Apple Valley Fee Schedule.
 - (d) All the provisions of this Chapter pertaining to impounded, unlicensed dogs, except the licensing provisions thereof, shall apply to impounded animals.
 - (e) The Poundkeeper or any duly authorized person shall have the right to receive and dispose of dogs or other animals delivered into his possession by the owners thereof and shall charge a specified fee for each dog, cat, puppy, kitten or other animal delivered into his custody.

(f) Any impounded animal which has not been redeemed or sold may be disposed of by euthanasia in accordance with State and Town of Apple Valley laws.

(g) Disposition of Impounded Animals

- (1) An impounded dog or other animal may be redeemed by payment of a specified pound fee in addition to the daily charges and other charges, if any, for each day the animal has been impounded.
- (2) Any dog over the age of four (4) months which has been impounded shall not be released from the pound or any shelter which is under contract with the Town of Apple Valley, unless it is first licensed in accordance with the provisions of this Chapter.
- (3) Any officer acting under the provisions of this Chapter, and impounding a licensed dog, shall give notice in person, by phone, or by mail to the last known address of the owner, of the impounding of such dog. If such dog is not redeemed and owner or possessor does not pay the fees required as specified in this Chapter within five (5) days or one hundred twenty (120) hours after notice has been given, the Shelter or Animal Control Department shall dispose of such dog in accordance with the provisions of this Chapter.

(h) Sterilization

- (1) No unclaimed impounded dog or cat shall be released for adoption without first being sterilized or without written statement from a licensed veterinarian that it would be detrimental to the animal's health to have it sterilized at this time. A sterilization deposit of not less than \$40.00 dollars nor more than \$75.00 must be collected at the time of adoption. The dog or cat must then be sterilized within 14 days after being released from the Veterinarian. If the adopter presents proof of sterilization within 330 business days of obtaining the proof, the adopter shall receive a full refund of the deposit.
- (2) All dogs, cats, and pot-bellied pigs kept in excess of the number allowed per Title 15.01.125A, and permitted with an Animal Control Permit, must be sterilized within thirty (30) days from the date of the assigned permit number.

(i) Record of Impounded Animals

Each officer, or any other duly authorized person, shall keep a record of all animals impounded by him which shall show:

- (1) Date of impoundment.
- (2) License tag number, if any.
- (3) Complete description of animal.
- (4) Date and manner of its disposal.
- (5) If redeemed or sold, the name and address of the person by whom redeemed or purchased, the amount of all fees and other moneys received or collected and the disposition thereof. **(Section 15.01.030 amended Ordinance #213 adopted 9-28-99)**

15.01.040 Disposition of Dead Animal. When any dog or other animal or fowl owned by, or in the custody or control of any person, or found in any person's private property dies, such person shall, within twenty-four (24) hours, provide for the

burial, incineration or other disposition of the body of such dead animal or fowl in a safe and sanitary manner.

It shall be unlawful for any person to dispose of the body of such dead animal or fowl in or on any public or private property, other than his own, without proper authorization from the Town of Apple Valley.

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. The shelter shall be constructed of new, refurbished, or treated wood, durable plastic or other material sufficient to block 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 person 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.

15.01.060 Animal Waste

It shall be unlawful for any owner or person in responsible charge of any animal to allow said animal to deposit solid waste matter on any improved or unimproved property other than that of the animal owner, unless the animal owner or responsible person in charge of the animal immediately picks up the solid waste. Any solid waste deposited on a dog owners property must be picked up and otherwise properly disposed of every seventy-two (72) hours. All other animal solid waste must be picked up and disposed of properly once every seven (7) days. This section shall not apply to trails and/or Town right-of-ways.

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 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)**

15.01.080 Animal Noise.

It shall be unlawful for any person to keep or allow to be kept, or permit any animal to remain upon the premises under the control of such person, when such animal habitually barks, whines, crows or makes loud or unusual noises in such a manner as to disturb the peace and quiet of the neighbors surrounding or in the vicinity of such premises, or whose barking, whining, crowing, or other sound interferes with any person of ordinary sensitivity in the reasonable and comfortable enjoyment of life and property. The Animal Control Officer shall promptly investigate or cause to be investigated all complaints that this Section is being violated if such complaints are in writing and contain the signature of the complainant.

15.01.090 Female Dogs and Puppies.

It shall be unlawful for any person in Apple Valley to permit any female dog owned, harbored or controlled by him, when such dog is in heat or in season or breeding condition, to be unconfined in a manner that attracts stray male dogs.

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.

15.01.100 Wild, Exotic or Nondomestic Animals in Captivity. No person shall have, keep, maintain, breed, sell, trade or let for hire, any wild, exotic, dangerous or nondomestic animal without first applying to and receiving special authorization from the State of California, Department of Fish and Game. The keeping or maintenance of such animals shall also conform to the Town Development Code and Town Municipal Code. The provisions of this Chapter shall not apply to licensed circuses, carnivals, zoos or other collections of wild animals under jurisdiction of the Town, State or Federal government.

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 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 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 shall initiate an administrative hearing. The Hearing Officer shall hear and consider all relevant evidence, objections, or reports, 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.

15.01.120 Enforcement. In accordance with Section 836.5 of the California Penal Code, the civil and criminal provisions of this Chapter shall be enforced by those persons or agencies designated by municipal authority. It shall be a violation of this Chapter to interfere with the Animal Control Officer in the performance of his duties.

15.01.125 Animal Limitations.

(a) All animal keeping and animal density is subject to limitations shown in Table 15.01.125 A.

Table 15.01.125 A

TYPE OF USE	DISTRICT							
	R-VLD	R-A	R-LD	R-E	R-EQ	R-SF	R-M	PRD
1. 4-H or FFA animal raising and/or keeping	P	P	P	P	P	P	-	SUP
2. Commercial horticulture ¹	P	P	P	P	P	P	-	CUP
3. Animal hospital	P	P	P	-	-	-	-	-
4. Bee Hives	1 hive per 13500 sf	1 hive per 13500 sf	1 hive per 13500 sf	-	-	-	-	-
5. Commercial Equestrian Stables and Arenas	P	P	P	CUP	CUP	-	-	-
6. Dogs and cats as follows:								
Up to 1 dog or 1 cat	P	P	P	P	P	P	P ²	P
Up to 4 dogs ^{3 4}	P	P	P	P	P	P	-	P ⁶
Up to 4 cats ⁴	P	P	P	P	P	P	-	P ⁶
7. Exotic Animals	SUP	SUP	SUP 2 max	SUP 2 max	SUP 2 max	-	-	P ⁶

8. Exotic Birds ⁵	SUP	SUP	SUP 2 max	SUP 2 max	SUP 2 max	-	-	P ⁶
9. Farm cattle and other bovine	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per lot	1 per lot	-	-	P ⁶
10. Horses and other equine	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	-	-	P ⁶
11. Llamas and alpaca	1 per 4500 sf	1 per 4500 sf	1 per 9000 sf	1 per lot	1 per lot	-	-	P ⁶
12. Kennels, commercial and non-commercial.	P	P	P	CUP	CUP	-	-	-
13. Ostriches, emus, rheas, kiwis or other ratite	1 per 9000 sf	1 per 3000 sf	1 per 9000 sf	-	-	-	-	-
14. Pigs or other swine	P	P	1 per 9000 sf	1 per lot	-	-	-	-
15. Poultry and other fowl ⁵ caged / fenced outside	P	P	1 per 1800 sf	5 max + 1 male	5 max + 1 male	5 max + 1 male	-	P ⁶
16. Rabbits	P	P	1 per 1800 sf	Total of 6	Total of 6	Total of 6	-	P ⁶
17. Sale of agricultural products	P	P	P	-	-	-	-	P ⁶
18. Sheep, goats and other ovine	1 per 3000 sf	1 per 3000	1 per 4500	2 per lot	2 per lot	-	-	P ⁶
19. Small domestic animals kept as household pets	P	P	P	P	P	P	-	P ⁶

¹ These uses are permitted subject to compliance with the provisions of Section 9.03.0600, Home Occupation Permits.

² Maximum permitted per unit. Pot belly pigs are not permitted in the RM district.

³ Female or neutered male pot belly pigs are permitted in accordance with Section 9.29.030.c of the Apple Valley Development Code.

⁴ Excess of four (4), not to exceed a combined total of eight (8) dogs and cats, requires an Animal Control Permit and that all animals be spayed or neutered.

⁵ Except peafowl are permitted only in R-A.

⁶ Uses permitted in a PRD development shall be consistent with the approved PRD. Uses not prescribed by an approved PRD shall be consistent with RSF within the Town Municipal Code.

(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.

15.01.130 Penalty Provisions.

Infraction. Any person violating any provisions of this Chapter shall be guilty of an infraction and upon conviction thereof shall be punished in accordance with the provisions of Section 1.01.200 through 1.01.230 of Chapter 1.01 of Title 1 of this Code. *(Amended Ord. 156, adopted 11-14-95)*

15.01.140 Abatement of Public Nuisance

Any violation of Chapter 15.01, Chapter 15.02 or Chapter 15.03 shall constitute a public nuisance and shall be abated by licensing, removal, containment, restraint, spaying or neutering, or maintaining a healthy environment pursuant to the procedures set forth in this Chapter. The procedures for abatement set forth in this Chapter shall not be exclusive and shall not in any manner limit or restrict the Town from enforcing any Town ordinances or abating public nuisances in any other manner provided by law.

15.01.145 Notification of Nuisance

Whenever the Town Manager or his or her designee determines that any animal within the Town is being maintained contrary to one or more of the provisions of this Chapter, written Notice to Appear or Notice of Violation may be delivered to the animal owner or the person in responsible charge of the animal, identifying the violation(s) and section(s) being violated. Such notice shall set forth the administrative penalty or penalties and methods of correcting the violation(s). Such notice shall be served upon the animal owner or the person in responsible charge of the animal in person or by mail. The administrative penalty or penalties described in this section shall be the same sum(s) as described in section 1.01.230(b) of the Town of Apple Valley Municipal Code for conviction(s) of infraction(s). If an appeal from the Notice to Appear is not filed within the time described in section 15.01.160 of this Chapter, then the existence of the violation(s) described in the Notice to Appear or Notice of Violation shall be conclusively established as a public nuisance and shall be abated in the manner described in said notice and in

section 15.01.150 of this Chapter, and any administrative fine(s) set forth in said notice shall thereupon be due and payable.

15.01.150 Appeal Procedure Through A Hearing Officer

(a) The animal owner or the responsible person in charge of the animal may contest the Notice to Appear or through a Town of Apple Valley Hearing Officer, who shall be the Town Manager or his or her designee, by paying an appeal fee, which shall be the sum(s) described in section 15.01.155, and by filing a written appeal with the Town Manager or designee within twenty-one (21) calendar days from the date the Notice to Appear was mailed or delivered. The appeal request shall contain:

1. A specific identification number of the subject Notice to Appear.
2. The name and address of the appellant.
3. A statement of appellant's legal interest in the animal.
4. A statement in ordinary and concise language of the specific(s) or action protested and the grounds for contesting the citation, together with all material facts in support thereof.
5. The date and signatures of the appellant.

(b) As soon as practical after receiving the notice appealing the Notice to Appear, the Town Manager or designee, who shall act as a Hearing Officer, shall set a date for the appeal to be heard, which shall not be less than seven (7) calendar days nor more than thirty (30) calendar days from the date the notice of appeal was filed. The Hearing Officer shall give each appellant a written notice of the time and the place of the hearing at least five (5) calendar days prior to the date of the hearing, either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his/her address shown on the Notice To Appear. Continuances of the hearing may be granted by the Hearing Officer on request of the appellant for good cause shown or on the Hearing Officer's motion.

15.01.155 Decision by Hearing Officer

Upon the conclusion of the hearing, the Hearing Officer shall determine whether the animal as maintained constitutes a public nuisance. If the Hearing Officer so finds, the Hearing Officer shall declare such animal to be a Public Nuisance setting forth his/her finding and ordering the abatement of the same by having such animal licensed, removed, confined, restrained, spayed or neutered, and/or maintained in a healthy environment, as may be appropriate. The decision of the Hearing Officer may also uphold the administrative fine(s) set forth in the Notice To Appear or change the amount of the fine(s) or eliminate the fine(s) if no violation is found to exist. In the event the fine(s) is eliminated, the appellant shall be entitled to refund of the appeal fee. The decision of the Hearing Officer shall be final.

15.01.160 Hearing Procedures

- (a) All hearings shall be tape recorded.
- (b) Hearing need not be conducted according to the technical rules of evidence.
- (c) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state. Any relevant evidence shall be admitted if it is the type

of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

- (d) Oral evidence shall be taken only on oath or affirmation.
- (e) Irrelevant and unduly repetitious evidence shall be excluded.

15.01.165 Judicial Action/Abatement

Whenever the animal owner or responsible party fails to file a timely appeal or fails to pay the penalty or penalties and/or correct the violation described in section 15.01.155 within twenty-one (21) days of the issuance of a Notice To Appear, in addition to any other rights and remedies available to the Town, prosecution of the violation may be initiated and/or completed in the Municipal Court.

15.01.170 Attorney Fees

In the event the Town incurs attorney fees in any action or proceeding to abate a nuisance under Title 15 or under any other ordinance or title of the Town of Apple Valley Municipal Code, pursuant to Government Code section 38773.5, attorney fees are recoverable by the prevailing party, in those actions or proceedings in which the Town elects, at the initiation of the action or proceeding, to seek recovery of its own attorney fees.

15.01.175 Lien for Costs

When the costs and/or fine(s) incurred and assessed become final, and if unpaid, a lien may be placed upon the owner's or keeper's real property where the animal was maintained. The Town Council shall affirm such assessment and cause same to be recorded on the assessment roll. Such assessment shall constitute a special assessment against and a lien upon the property. Said assessment shall be levied and collected in accordance with section 38773.5 of the Government Code and with the applicable provisions of Chapter 6.30 of the Town of Apple Valley Municipal Code.

15.01.180 Civil Action to Collect

In addition to any other rights or remedies the Town may have to collect any fines, fees or debts which are owing under this Title, said sum or sums shall constitute a civil debt to the Town, and the Town shall have the right to file a civil action and seek and judgment therefor which may include all costs incurred by the Town in prosecuting said action.

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 28 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