

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject Item:**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, REPEALING RESOLUTION NUMBER 2007-03 AND CREATING RESOLUTION NO. 2010-49 RELATING TO RULES OF PROCEDURE FOR TOWN COUNCIL MEETINGS AND RELATED FUNCTIONS AND ACTIVITIES.**

**Summary Statement:**

The Town Council Rules of Procedure were established in 1988 when the Town was incorporated. Several changes have been made to the Rules of Procedure by Council action during the past several years with the last revision taking place in February 2007.

At the Town Council Meeting on September 28, 2010, the Town Council approved a Code of Ethics for all Town Officials and Employees. At that time, it was recommended that the Town Council review its Rules of Procedure for necessary amendments and/or changes.

Staff has reviewed the Rules of Procedure and made various changes. The format for the rules has also been changed to assist the Town Council and public in clearly identifying various sections of the rules. Staff recommends amending Resolution No. 2007-03 in its entirety and approving Resolution No. 2010-49. The document has been reviewed and its content approved by the Town Attorney.

**Recommended Action:**

Approve Resolution No. 2010-49, a Resolution of the Town Council of the Town of Apple Valley, California, repealing Resolution Number 2007-03 and adopting Resolution Number 2010-49 Relating to Rules of Procedure for Town Council Meetings and related functions and activities.

**Proposed by:**            Frank Robinson, Town Manager            **Item Number** \_\_\_\_\_

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

**RESOLUTION NO. 2010-49**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, REPEALING RESOLUTION NUMBER 2007-03 AND CREATING RESOLUTION NO. 2010-49 RELATING TO RULES OF PROCEDURE FOR TOWN COUNCIL MEETINGS AND RELATED FUNCTIONS AND ACTIVITIES.**

WHEREAS, Section 2.04.040 of the Town of Apple Valley Municipal Code requires that the Town Council adopt Rules of Procedure to govern the conduct of its meetings and any of its other functions and activities and regulations pertaining thereto; and

WHEREAS, the Town Council of the Town of Apple Valley finds it is necessary to update and amend its Rules of Procedure for Town Council Meetings and Related Functions and Activities.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Apple Valley as follows:

Section 1. The Rules of Procedure for Town Council Meetings and Related Functions and Activities are hereby amended in its entirety as set forth in Attachment A, attached hereto and incorporated here by this reference.

Section 2. This Resolution is intended to replace all prior Resolutions adopting or amending the Rules of Procedure for Town Council Meetings and Related Functions and Activities. Future amendments to one or more portions of these Rules may be made by referencing applicable portions of the Rules of Procedure for Town Council Meetings and Related Functions and Activities.

Adopted by the Town Council and signed by the Mayor and attested by the Town Clerk this 26<sup>th</sup> October 2010.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
TOWN CLERK

**RULES OF PROCEDURE FOR TOWN COUNCIL  
MEETINGS AND RELATED FUNCTIONS AND ACTIVITIES**

**PURPOSE:** The purpose and intent of the Town Council in adopting the rules within shall be to provide directory guidelines relating to the conduct of the public business by or on behalf of the Town Council, and in the event of any noncompliance with or violation of any provision herein, such will not be deemed to affect the validity of any action taken.

**RULE 1. REGULAR MEETINGS**

Regular Meetings of the Town Council of the Town of Apple Valley shall generally be held on the Second and Fourth Tuesday of each month beginning at 6:30 p.m. When the regular meeting of the Town Council falls on a Town legal holiday, no meeting shall be held on such holiday, but a regular meeting shall be held at the same hour on the next second or fourth Tuesday of the month thereafter that is not a holiday or at such date fixed in advanced by the Town Council.

**RULE 2. MEETING PLACE**

Regular meetings of the Town Council of the Town of Apple Valley shall be held in the Town Council Chambers, Apple Valley Town Hall, 14955 Dale Evans Parkway, Apple Valley, California, 92307, unless another location with the Town of Apple Valley is identified for a particular meeting.

**RULE 3. OPEN MEETINGS**

All meetings of the Town Council of the Town of Apple Valley shall be open and public, and all persons shall be permitted to attend any meeting of the Town Council except as otherwise provided herein.

**RULE 4. CLOSED SESSIONS**

The Town Council of the Town of Apple Valley may hold closed sessions as provided by law from which the public may be excluded for the consideration of the following subjects:

a. Personnel Matters:

The consideration of appointment, employment, or evaluation of performance, or discipline/dismissal/release of a public employee or the hearing of complaints or charges brought against the employee by another person or employee; such sessions shall conform to Section 54957 of the Government Code. The Council may exclude from any such closed session or public meeting during the examination of a witness, any or all other witnesses in the matter being investigated.

b. Conference with Legal Counsel—Existing/Anticipated Litigation:

To consider existing or anticipated litigation or liability claims in which the Town is or could be a party, as permitted under and in conformance with Section 54956.9 of the Government Code.

c. Conference with Real Property Negotiators:

Pursuant to and in conformance with Section 54956.8 of the Government Code.

d. Other:

Other matters as are permitted by and in conformance with applicable law.

e. Closed Session Minutes:

Pursuant to Section 54957.2 of the California Government Code, the Town Clerk of the Town of Apple Valley may be required to attend a closed session of the Town Council and keep and enter in a minute book a record of topics discussed and decisions made at each meeting. The confidentiality of such minutes shall be maintained pursuant to said section of the Government Code.

**RULE 5. ADJOURNED MEETINGS**

The Town Council of the Town of Apple Valley may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the Town Clerk may declare the meeting adjourned to a stated time and place, and the Town Clerk shall cause a written notice of the adjournment to be given in the same manner as provided herein for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be posted on or near the door of the Council Chambers or placed where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four (24) hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided herein, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

**RULE 6. SPECIAL MEETINGS**

A Special Meeting may be called at any time by the Presiding Officer or by a majority of the members of the Town Council, by delivering personally, by mail or by electronic mail a notice to each member of the Town Council and to the newspaper of general circulation. Such notice shall be received and posted at least twenty-four (24) hours before the time of the meeting as specified in the notice.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by the Town Council and no ordinance (other than urgency ordinances) may be adopted.

**RULE 7. EMERGENCY MEETINGS**

In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, the Town Council of the Town of Apple Valley may hold an emergency meeting without complying with either the twenty-four (24) hour notice requirements or the twenty-four (24) hour posting requirement of Rule 6. For purposes of this rule, "emergency situation" means any of the following:

- a. Work stoppage or other activity which severely impairs public herein, safety, or both, as determined by a majority of the Town Council.
- b. Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the Town Council.

Each local newspaper of general circulation which has requested notice of meetings shall be notified by the Presiding Officer, his/her designee or the Town Clerk, one (1) hour prior to the emergency meeting by telephone or electronic mail. In the event that these services are not functioning, the notice requirements of this rule shall be deemed waived and the Presiding Officer, Presiding Officer's designee or the Town Clerk shall notify the newspaper of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

The minutes of a meeting called pursuant to this rule, a list of persons who the Presiding Officer, Presiding Officer's designee or Town Clerk, notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for a minimum of ten (10) days in a public place as soon after the meeting as possible.

#### **RULE 8. AGENDAS AND NOTICES OF MEETINGS**

In respect to every regular meeting, the Agendas shall conform to Section 54954.2 of the California Government Code and shall be posted at least 72 hours prior to the time scheduled for meetings. Agendas shall be posted in a location that is freely accessible to members of the public near the entrance of Town Hall and at such other places within the Town as the Town Council has designated for posting notices of Council meetings.

Notice of Special Meetings shall be posted and provided as required by Government Code Section 54956.

#### **RULE 9. QUORUM**

Unless otherwise provided by State Law or in the Municipal Code, a majority of the Council shall be sufficient to do business and motions may be passed 2-1 if only 3 attend. However, resolutions, orders for payment of money, and all ordinances require a recorded majority vote of the total membership of the Council, and certain actions under State Law or in the Municipal Code.

#### **RULE 10. LEGALLY REQUIRED PARTICIPATION**

If a majority of the Council shall be disqualified to vote on a matter by reason of conflicts of interest, the Council shall select by lot or other means of random selection, or by such other impartial and equitable means as the Council shall determine, that number of its disqualified

members which, when added to the members eligible to vote, shall constitute a quorum, with a sufficient number of members to act on the matter.

#### **RULE 11. ORDER OF BUSINESS**

The regular order of business of the Town Council of the Town of Apple Valley shall be:

- Opening Ceremonies:
  - Call to Order
  - Roll Call
  - Invocation
  - Pledge of Allegiance
- Closed Session
- Special Announcements
- Presentations
- Public Comments
- Councilmember Comments/Committee/Commission Participation
- Town Council Announcements
- Consent Agenda
- Public Hearings
- Legislative Matters
- Reports, Requests and Communications
- Town Manager's Comments and Legislative Update
- Further Closed Session
- Adjournment

Where Redevelopment Agency or other form of entity is scheduled for the same time as a Town Council Meeting, the agendas will be combined and the meetings will be opened as Joint Meetings so long as each item described is attributed to the appropriate entity and the proposed action is taken by that entity.

#### **RULE 12. MAYOR AND MAYOR PRO TEM**

The Mayor shall be the Presiding Officer at all meetings of the Council. In the absence of the Mayor, the Mayor Pro Tem shall preside. In the absence of the Mayor and Mayor Pro Tem, the Council shall select a temporary Presiding Officer to serve until the arrival of the Mayor or Mayor Pro Tem or until adjournment.

The Town Council shall meet on the first regular meeting date in December of each year and choose one of its members as Mayor and one as Mayor Pro Tem as established by resolution. The Council Member receiving the highest number of votes in the most recent election may be selected by a majority vote of the Council to serve in the position of Mayor, and the Council Member receiving the second highest number of votes in the most recent election may be selected by a majority of the Council to serve in the position of Mayor Pro-Tempore, and may thereafter be elected to serve as Mayor unless otherwise determined by Council. In odd years, the Mayor Pro-Tempore will be selected at random by a majority vote of the Council.

### **RULE 13. QUESTIONS OF LAW**

All questions of law shall be referred by the Town Council to the Town Attorney for opinion. All contracts and proposed ordinances shall be referred to the Town Attorney for approval as to form.

### **RULE 14. PREPARATION OF AGENDA**

The agenda shall be prepared by the Town Clerk for each meeting of the Town Council and shall contain a brief general description of each item of business to be transacted or discussed at the meeting. The agenda shall specify the time and location of the regular meeting and shall be posted at least 72 hours before the meeting in a location that is freely accessible to members of the public. All proposed agenda items shall be approved for placement on the agenda by the Town Manager, the Mayor or their designee, before being placed on the agenda by the Town Clerk. Notwithstanding the foregoing, if any member of the Town Council desires to place an item on the agenda other than an urgency item, the item may be presented first at a regular meeting, where a majority of the Town Council members there concur to its placement on a Council meeting agenda at a later date.

### **RULE 15. AGENDA PROCEDURE**

Except as otherwise provided herein, any matter to be presented to or acted upon by the Town Council at a regular meeting must be submitted to the Town Clerk's Office not later than 5:00 p.m. Tuesday preceding the Tuesday meeting. Unless so filed, the matter will not be considered by the Town Council until the next succeeding meeting of the Town Council; however, with the consent of the Town Manager, Mayor, or their designee, a matter may be placed on the agenda at any time prior to 72 hours before the regular meeting. No action shall be taken on any item not appearing on the posted agenda; however, the Town Council may take action on items of business not appearing on the posted agenda under any of the following conditions:

- a. Upon determination by a majority vote of the Town Council that an emergency situation exists, as defined in Section 54956.5 of the Government Code.
- b. Upon a determination by a two-thirds (2/3) vote of the Town Council, or, if less than two-thirds (2/3) of the Town Council members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the Town subsequent to the posting of the agenda.
- c. The item was posted on the agenda for a prior meeting of the Town Council occurring not more than five (5) calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

If a member of the public desires to place an item on the agenda, they have an opportunity to make their request before the Town Council during the Public Comment portion of the agenda or they may submit their request in writing to the Town Manager. Requests made during Public Comments or by writing do not guarantee placement on the agenda; however all concerns of the public will be addressed.

## **RULE 16. REFERRALS**

Any matter coming before the Town Council may, if deemed necessary, be referred to a department, committee or commission concerned therewith.

## **RULE 17. RECONSIDERATION**

At the same meeting or at the meeting succeeding that at which a final vote on any question has been taken, said vote may be reconsidered on the motion of any member of the Town Council, if notice of intention to move such reconsideration has been given at the meeting at which such final vote was taken by a member voting with the majority.

## **RULE 18. ADDRESSING THE TOWN COUNCIL**

### **a. Manner in Addressing Council**

Any member of the public may address the Town Council: (1) on an agenda item before or during the Town Council's consideration of the item, and (2) on any matter not on the Agenda that is within the subject matter jurisdiction of the Town Council at the time provided on the agenda for public comment, provided the person submits a completed Request to Speak Card to the Town Clerk or his or her designee PRIOR to the time the Presiding Officer calls the item for the Town Council's consideration. The person wishing to address the Town Council shall, when recognized by the Presiding Officer, step up to the podium and announce his or her name and address. The Presiding Officer shall, in the interest of facilitating the business of the Town Council, limit the amount of time which a member of the public may use in addressing the Town Council to three (3) minutes total on the Consent Calendar and to three (3) minutes on each discussion item, unless, the Presiding Officer or a majority of the Town Council, in the interest of facilitating the business on the Town Council limit the total amount of time which a member of the public may use in addressing the Town Council on all agenda items to twelve minutes, unless the Presiding Officer or a majority of the Town Council, determines that a different time limit is appropriate.

### **b. Time Limitation**

As stated in Subsection (a) any member of the public desiring to address the Council shall limit his/her address to three (3) minutes unless additional further time has been granted by the Presiding Officer or a majority of the Town Council.

### **c. Addressing the Town Council after Motion is Made**

After a motion has been made, or after a public hearing has been closed, no member of the public shall address the Council on the matter without first securing permission by the Presiding Officer or by a majority of the Council.

### **d. Limitations Regarding Public Comments and Reports**



- (1) The making of oral communications to the Council by any member of the public during the "Public Comments" and/or "Reports, Requests and Communications" portions of the agenda shall be subject to the following limitations:

"At any time, upon determining the substance or intent of the communication or after the oral communication is commenced, where appropriate, the Presiding Officer may direct that the communication be made instead either to the Town Manager or other appropriate staff member during regular business hours, or in writing for subsequent submittal to Council members as necessary."

- (2) Absent extenuating circumstances, no speaker shall be permitted to address the Town Council on a topic which is currently before or about to be submitted for consideration by a Town Commission, board or other agency before which the speaker should make his presentation, until that latter body has completed its deliberations and taken its final action. In case the speaker is a party to or should have followed an otherwise available appeal procedure, absent extenuating circumstances, the Presiding Officer should not allow oral communication to the Town Council outside that procedure.
- (3) The Presiding Officer may reasonably limit the number of speakers heard on non-agenda topics at any single meeting, to avoid interfering with the ability to timely complete the meeting. Those whose presentations are postponed shall be given priority at the next meeting (during the "Public Comments" or "Reports, Requests and Communications" portions of the agenda).
- (4) If it appears that several speakers desire to speak regarding a single topic, the Presiding Officer may reasonably limit the number speaking as to each side of an issue. In this regard, preference and/or extra time may be given to speakers who represent groups of persons who have designated a spokesperson.
- (5) Subject to applicable provisions of law, including Government Code Section 54954.3(c) (which permits criticism of policies, procedures, programs and services of the Town, or acts or omissions of the Town Council), oral communications which include charges or complaints against any employee of the Town, whether such employee is identified in the presentation by name or by any other reference which tends to identify him, may be prohibited by the Presiding Officer to the extent that they interfere with the ability to timely and/or effectively conduct the meeting. All charges or complaints against employees shall be submitted to the Town Manager for appropriate action, and may also be submitted to members of the Town Council by written communication.
- (6) If a member of the public desires to present to the Town Council during public comments a video or recording of an issue that is within the subject matter jurisdiction of the Town Council, that member should provide the information to the Town Clerk not less than two (2) days in advance of the public meeting for review by the Town Manager to determine if the video or recording is appropriate for review in open session at the Town Council Meeting. If it is determined that the material is appropriate, the member of the public will be allowed to present the video or recording under the same time limitation as listed in Subsection (b). If a member of the public does not provide the video or recording in advance of the meeting for review, the Presiding Officer or a majority of the Town Council

will make a determination as to whether or not the video or recording should be allowed or forward the video or recording to the Town Clerk for review by the Town Manager.

#### **RULE 19. WRITTEN CORRESPONDENCE:**

The Town Manager and/or his/her designee is authorized to receive and open all mail addressed to the Town Council as a whole and give it immediate attention to the end that all administrative business referred to in said communications, and not necessarily requiring Town Council action, may be disposed of between Town Council meetings. A copy of such communication shall be sent to each Town Council Member marked "Information Only."

Any communication relating to a matter pending, or to be brought before the Town Council shall be included in the agenda packet for the meeting at which such item is to be considered.

Letters of appeal from administrative or commission decisions shall be processed under applicable provisions of the Municipal Code, or of other ordinances or regulations.

Copies of all other communications sent to the Town Council will be transmitted to the members.

#### **RULE 20. DECORUM AND ORDER**

##### **a. Town Council**

- (1) Any Council Member desiring to speak shall address the Presiding Officer and, upon recognition by the Presiding Officer, shall confine himself to the question under debate.
- (2) A Council Member desiring to question a staff member other than the presenter of an item shall address his/her question to the Town Manager or Town Attorney, who shall be entitled either to answer the inquiry themselves or to designate some member of staff for that purpose.
- (3) A Council Member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer, unless a Point of Order is raised by another Council Member, or unless the speaker chooses to yield to questions from another Council Member.
- (4) Any Council Member called to order while he is speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, he shall be permitted to proceed. If ruled to be out of order, he shall remain silent or alter his remarks, so as to comply with rules of the Town Council.
- (5) Council Members shall accord the utmost courtesy to each other, to Town employees, and to the public appearing before the Council and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.
- (6) Any Council Member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the Town Council shall require him to so act.

(7) The Town Council shall not prohibit public criticism of the policies, procedures, programs, or services of the Town or the acts or omissions of the Town Council. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

**b. Employees**

Members of the administrative staff and employees of the Town shall observe the same Rules of Procedure and decorum applicable to members of the Town Council. The Town Manager shall insure that all Town employees observe such decorum. Any staff member, including the Town Manager, desiring to address the Town Council or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any one individual Council Member or member of the public.

**c. Public**

Members of the public attending Council meetings should observe the same Rules of Procedure and decorum applicable to the Town Council and its employees. No person except Town officials shall be permitted within the platform area in front of the Council table without the invitation or consent of the Presiding Officer.

**RULE 22. DISRUPTIVE CONDUCT – REMOVAL FROM CHAMBERS.**

Disruptive conduct is described as any impertinent and/or slanderous remarks or any boisterous behavior while addressing the Town Council or while attending the Town Council Meeting. In the event that any meeting of the Town Council is willfully disrupted by a person or by a group or groups of persons so as to render the orderly conduct of the meeting impossible, the Presiding Officer may recess the meeting or order the person, group or groups of persons willfully disrupting the meeting to leave the meeting or be removed from the meeting. **Disruptive conduct includes addressing the Town Council without first being recognized, not addressing the subject before the Town Council, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, failing to be seated when requested, stomping of feet, whistles, yells and similar demonstrations that prevent the Town Council from conducting its meeting in an orderly manner, is guilty of a misdemeanor as stated in Section 2.04.030 of the Town of Apple Valley Municipal Code.**

**RULE 21. SERGEANT AT ARMS**

The Chief of the Town of Apple Valley Police Department or his/her designee shall be designated as the Sergeant-at-Arms of the Town Council and shall attend the meetings of the Town Council.

**RULE 22. ENFORCEMENT OF DECORUM**

The Sergeant-at-Arms shall carry out all orders and instructions given to him/her by the Presiding Officer for the purpose of maintaining order and decorum in the Council Chambers. Upon instructions from the Presiding Officer, it shall be the duty of the Sergeant-at-Arms or his/her designee to eject any person from the Council Chambers or place that person under arrest or both.

As set forth in Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the Town Council may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the Town Council from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

#### **RULE 23. CONFLICT OF INTEREST**

All Council members are subject to the provisions of California Law, including but not limited to, Chapter 7, Title 9, of the California Government Code, relative to any conflicts of interest, and to the conflict of interest code adopted by the Council. Any Council Member prevented from voting because of a conflict of interest shall refrain from debate and voting. Such Council Member shall leave the Council Chambers during debate and voting on the issue as required by and subject to the provisions of applicable law.

#### **RULE 24. LIMITATION OF DEBATE**

No Council Member normally should speak more than once upon one subject until every other member choosing to speak thereon has spoken. No member shall speak for a longer time than five minutes each time he has the floor, without the consent of a majority of the Council.

#### **RULE 25. PROCEDURES IN ABSENCE OF RULES**

In the absence of a rule herein to govern a point or procedure, Robert's Rules of Order, Newly Revised, shall be used as a guide.

#### **RULE 26. RULINGS OF PRESIDING OFFICER FINAL UNLESS OVERRULED**

In presiding over Council meetings, Presiding Officer shall decide all questions of interpretation of these rules, points of order or other questions of procedure requiring rulings, and may seek the advice of the Town Attorney in such matters. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Council Members present and voting, and shall be binding and effective (even though clearly erroneous) for purposes of the matter under consideration.

#### **RULE 27. ACTIONS NOT INVALIDATED**

Failure to strictly comply with these Rules of Procedures shall not necessarily invalidate any action taken by the Town Council.

References in these rules to "he" or "she," or to the singular or plural, shall each be deemed to include the other when the context so allows.

The application of these rules shall be subject to and subordinate to all provisions of applicable law.