

**APPLE VALLEY  
ORDINANCE O-2022-59**

**NOW THEREFORE**, be it ordained by the Council of the Apple Valley, in the State of Utah, as follows:

**SECTION 1:**        **AMENDMENT** “1.08.010 Sentencing” of the Apple Valley Municipal Code is hereby *amended* as follows:

**BEFORE AMENDMENT**

1.08.010 Sentencing

A. Penalty for Violation of Ordinance:

1. Specified: The county commissioners may impose a maximum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301 or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.

2. Traffic; Parking:

a. Except as specifically authorized by statute, the legislative body may not impose a civil penalty for the violation of a county traffic ordinance.

b. Subsection A2a of this section does not apply to an ordinance regulating the parking of vehicles on a highway.

B. Term of Imprisonment For Misdemeanors: A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

1. In the case of a class B misdemeanor, for a term not exceeding six (6) months;

2. In the case of a class C misdemeanor, for a term not exceeding ninety (90) days.

C. Infractions:

1. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture and disqualification, or any combination.

2. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.

D. Fines of Persons: A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:

1. Class B Misdemeanor: One thousand dollars (\$1,000.00) when the conviction is of a class B misdemeanor conviction; and

2. Class C Misdemeanor; Infraction: Seven hundred fifty dollars (\$750.00) when the conviction is of a class C misdemeanor conviction or infraction conviction.

E. Fines of Corporations: The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code, or the ordinances of the county, or for an offense defined outside of this code over which this county has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:

1. Class B Misdemeanor: Five thousand dollars (\$5,000.00) when the conviction is for a class B misdemeanor conviction; and

2. Class C Misdemeanor; Infraction: One thousand dollars (\$1,000.00) when the conviction is for a class C misdemeanor conviction or for an infraction conviction.

## AFTER AMENDMENT

### 1.08.010 Sentencing

#### A. Penalty for Violation of Ordinance:

1. Specified: The town council ~~county commissioners~~ may impose a maximum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301 or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.

#### 2. Traffic; Parking:

a. Except as specifically authorized by statute, the legislative body may not impose a civil penalty for the violation of a county traffic ordinance.

b. Subsection A2a of this section does not apply to an ordinance regulating the parking of vehicles on a highway.

#### B. Term of Imprisonment For Misdemeanors: A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

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E. Fines of Corporations: The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code, or the ordinances of the ~~town~~county, or for an ~~a~~offense defined outside of this code over which this ~~town~~county has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:

1. Class B Misdemeanor: Five thousand dollars (\$5,000.00) when the conviction is for a class B misdemeanor conviction; and

2. Class C Misdemeanor; Infraction: One thousand dollars (\$1,000.00) when the conviction is for a class C misdemeanor conviction or for an infraction conviction.

**SECTION 2:**        **AMENDMENT** “1.08.020 Offenses Designated; Classified” of the Apple Valley Municipal Code is hereby *amended* as follows:

#### BEFORE AMENDMENT

##### 1.08.020 Offenses Designated; Classified

###### A. Sentencing in Accordance with Chapter:

1. A person adjudged guilty of an offense under this code or the ordinances of this county shall be sentenced in accordance with the provisions of this chapter.

2. Ordinances enacted after the effective date of this code which involve an offense should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

B. Designation of Offenses: Offenses are designated as misdemeanors or infractions.

C. Misdemeanors Classified:

1. Misdemeanors are classified into tow (2) categories:

a. Class B misdemeanors;

b. Class C misdemeanors.

2. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this code or any ordinance of this county when no other specification as to punishment or category is made, is a class B misdemeanor.

D. Infractions:

1. Infractions are not classified.

2. Any offense which is made an infraction in this code or other ordinances of this county, or which is expressly designated an infraction and any offense designated by this code or other ordinances of this county which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

E. Continuing Violation: In all instances where the violation of this code or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

## AFTER AMENDMENT

1.08.020 Offenses Designated; Classified

A. Sentencing in Accordance with Chapter:

1. A person adjudged guilty of an offense under this code or the ordinances of this ~~town~~county shall be sentenced in accordance with the provisions of this chapter.

2. Ordinances enacted after the effective date of this code which involve an offense should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

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D. Infractions:

1. Infractions are not classified.

2. Any offense which is made an infraction in this code or other ordinances of this ~~town~~county, or which is expressly designated an infraction and any offense designated by this code or other ordinances of this ~~town~~county which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

E. Continuing Violation: In all instances where the violation of this code or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

**SECTION 3:            REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

**SECTION 4:            SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

**SECTION 5:            EFFECTIVE DATE** This Ordinance shall be in full force and effect from November 16, 2022.

PASSED AND ADOPTED BY THE APPLE VALLEY COUNCIL

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	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Mayor   Frank Lindhardt	_____	_____	_____	_____
Council Member   Andy McGinnis	_____	_____	_____	_____
Council Member   Barratt Nielson	_____	_____	_____	_____
Council Member   Kevin Sair	_____	_____	_____	_____
Council Member   Robin Whitmore	_____	_____	_____	_____

Attest

Presiding Officer

\_\_\_\_\_  
Jenna Vizcardo, Town Clerk, Apple Valley

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Frank Lindhardt, Mayor,, Apple Valley