

**APPLE VALLEY  
ORDINANCE O-2024-06**

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

**SECTION 1:           ADOPTION** “16.01.010 Code Enforcement Purpose And Introduction” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.01.010 Code Enforcement Purpose And Introduction(*Added*)

The Town Council finds that the enforcement of the Apple Valley Municipal Code, AV Ordinances and applicable state codes is an important public activity. Code enforcement is vital to the protection of the public’s health, safety, welfare, and quality of life. The Town Council recognizes that code enforcement is effective only when done fairly and consistently. The Town Council further finds that an enforcement system that allows a combination of judicial, administrative and civil remedies is the most effective way of correcting a Violation, as hereinafter defined.

The Town may enforce a Violation as allowed by law, including, but not limited to, enforcement via two primary methods:

(1) administrative actions, and (2) judicial actions in the form of civil or criminal procedures.

Civil and criminal judicial remedies for code enforcement are characterized by, for example, usage of a judge, attorney, official courtroom and other formal procedures related thereto.

A civil judicial case involves the determination of whether a party was injured/harmed and how much the party should be compensated for the same. General consequences of a civil case are monetary punishments in the form of fines and/or an order to do or cease to do something.

A criminal judicial case involves a government entity or other entity endowed with law enforcement powers arresting and trying someone in a court of law for a crime that was committed. Typical consequences of a criminal case are jail time, monetary punishments in the form of fines and a misdemeanor or felony charge being placed on the guilty party’s permanent record.

**SECTION 2:**            **ADOPTION** “16.01.020 Scope” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.01.020 Scope(*Added*)

The provisions of this Title may be applied to all – Violations that occur within Apple Valley Town limits and such territory outside Apple Valley Town limits over which the Town has jurisdiction or control by virtue of any constitutional provision or law. This Title establishes an additional remedy – civil code enforcement – that may be used by the Town to achieve compliance with applicable codes. No remedy provided herein is intended to be exclusive and shall be in addition to any other remedy given to the Town here under or now or hereafter existing at law.

While the Town’s population remains relatively small and its administrative staffing resources are limited, it anticipates that most, if not all, of this civil code enforcement program will be reactive in operation – responding to inquiries, complaints, etc. submitted to the Town by citizens and others. As the Town’s population grows and its administrative staffing levels expand, it projects that the operation of this civil code enforcement program may become more proactive in nature – Enforcement Officials (as hereinafter defined) or others patrolling the Town actively identifying Violations and pursuing their correction. The preceding sentences in this paragraph shall not limit the Town’s operation of this civil code enforcement program; it, at its sole discretion, may carry out this civil code enforcement program reactively, proactively or in any and all other manners pursuant to this Title at any and all times. For example, the Town’s operation of this civil code enforcement program primarily in a reactive manner shall not limit or prohibit the Town from proactive civil code enforcement efforts and vice versa.

**SECTION 3:**            **ADOPTION** “16.01.030 Criminal Prosecution Right” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.01.030 Criminal Prosecution Right(*Added*)

The Town shall have sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for a Violation. The enactment of this Title shall not be construed to limit the Town’s right to prosecute Violations as a criminal offense. The Town may use any of the remedies available under the law in both civil and criminal prosecution.

Although most Violations may be enforced through this Title, the following circumstances are examples of when the Town may choose to pursue criminal prosecution. This list provides potentially common situations for criminal prosecution; however, the list is not comprehensive and does not limit in any way the Town’s right to prosecute a Violation as a criminal offense.

1. The Responsible Person, as hereinafter defined, has one prior Violation within the last year.
2. The Violation caused bodily injury, substantial bodily injury, or serious bodily injury to an individual, all of which shall have the same definition as in Utah Code.
3. The Responsible Person, in a single criminal episode, violated one or more provisions of the Utah Criminal Code as well as one or more provisions of the Apple Valley Municipal Code, and all violations are being charged as a single criminal episode as defined in Utah Code.
4. The Responsible Person is being charged with any violation of the Apple Valley Municipal Code.
5. The Violation caused substantial property damage or a significant health or safety risk to the public.
6. The failure of a Responsible Person to comply with the terms, conditions, requirements, deadlines, etc. of an Administrative Notice (as hereinafter defined), Administrative Enforcement Order (as hereinafter defined) or any other order or notice issued pursuant to this Title.

**SECTION 4:**            **ADOPTION** “16.01.040 Definitions Applicable To Title Generally” of the Apple Valley Municipal Code is hereby *added* as follows:

#### ADOPTION

16.01.040 Definitions Applicable To Title Generally(*Added*)

In the construction of this Title, the following words and phrases shall be as defined as set forth in this section unless a different meaning is specifically defined elsewhere in this Title and specifically stated to apply:

“Day” refers to calendar days.

“Enforcement Official” means any person authorized by the Mayor to determine and enforce Violations of the Apple Valley Municipal Code or applicable state codes including, but not limited to the Director, zoning officials, police officers, building inspection officials, code enforcement officials, fire marshal, fire officers, and animal control officers. Enforcement individual(s) as designated by the Mayor’s Office.

“Imminent Life Safety Hazard” means any condition that creates a serious and immediate danger or damage to life, property, health, or public safety.

“Mayor” means the mayor of Apple Valley Town.

“Notice of Compliance” means a document or form issued and approved by the Enforcement Official that indicates that a Violation has been corrected.

“Notice of Emergency Abatement” means a Written notice that informs a Responsible Person of emergency abatement actions taken by the Town, and the costs of those actions, and orders payment for those costs.

“Notice of Itemized Bill for Costs” means a Written notice, itemizing the Town’s costs and ordering payment of those costs.

“Notice of Violation” means a Written Notice that informs a Responsible Person of a Violation and orders certain remedial steps to correct said Violations. The order may include an order to abate the Violation, pay civil penalty and administrative costs; or any other action as authorized or required by this Title and applicable state codes.

“Person” means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, trust, organization, or the manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity, including public bodies, that is recognized by law as the subject of rights or duties.

“Personal Service” means the method of service for any notice or document that is performed by, in-person meeting or any other form of in-person or person-to-person communication, including those promulgated by Utah Rules of Civil Procedure Rule 4.

“Property Owner” means the record owner of real property as shown on the records of the Washington County assessor/recorder.

“Responsible Person” means the Person(s) determined by the Town who is responsible for causing or maintaining a Violation. The term Responsible person shall include, but is not limited to, a property owner, agent, tenant, lessee, occupant, architect, builder, contractor, or other Person who individually or together with another Person is responsible for a Violation.

“Town” means the Town of Apple Valley, Utah, including the Mayor, Town Administrator, Enforcement Official and all other employees of the Town.

“Town Council” means the Town Council of Apple Valley Town.

“Violation” means any condition caused, maintained, or permitted to exist in violation of any provision, statute, or requirement of the Apple Valley Municipal Code or applicable state codes.

“Warning Notice” means a Written notice that, on a courtesy basis, informs a Responsible Person of a Violation, requests that the Violation be corrected within a certain time frame, and warns that further enforcement action may be taken if the Violation is not corrected as and when specified in the Warning Notice.

Written” or “Writing” includes handwritten, typewritten, photocopied, computer printed, or facsimile.

**SECTION 5:           ADOPTION** “16.01.050 Notice And Service Requirements” of the Apple Valley Municipal Code is hereby *added* as follows:

#### ADOPTION

16.01.050 Notice And Service Requirements(*Added*)

1. Notices required to be given under this Title shall be in the English language.
2. Whenever-service is required to be given under this Title, service shall be made by any of the methods listed below, unless different provisions are otherwise specifically stated to apply. Personal Services should be tried before serving notice in the other methods indicated below.

##### 0. Personal Service

1. Regular or Certified mail, postage prepaid, to the last known address of a Responsible Person.
  2. Posting the notice conspicuously on or in front of the property. If the property is not inhabited, then the notice must also be mailed. The form of the posted notice shall be approved by the Director.
  3. Publish in a newspaper of general circulation if and only if: the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence; service is impracticable under the circumstances; or there exists good cause to believe that the Person to be served is avoiding service.
3. Service by regular mail in the manner set forth above shall be deemed served on the seventh day after the date of mailing when mailed in the continental United States. Service by regular mail to all other addresses shall deemed served on the tenth day after the date of mailing.

4. If service complies with the requirements of this section, it shall be deemed a valid service even if a party claims to have not received the service and it shall not affect the validity of any proceedings taken under this Title.

5. The failure of a Person, other than a Responsible Person, to be served in accordance with this section shall not affect the validity of any proceedings here under.

6. Whenever a document is recorded with the county recorder as authorized or required by this Title or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

**SECTION 6:            ADOPTION “16.01.060 General Enforcement Authority”** of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.01.060 General Enforcement Authority(*Added*)

Whenever an Enforcement Official finds that a violation has occurred or continues to exist, he/she may undertake any of the procedures herein. Enforcement Officials have the authority to gain compliance with the provisions of the Apple Valley Municipal Code and applicable state codes subject to the provisions of this Title. Such authority shall include the power to issue Notices of Violation, inspect public and private property, abate public and private property, and to use any remedy available under this Title or law, including, but not limited to, judicial and administrative remedies.

**SECTION 7:**            **ADOPTION** “16.01.070 Authority To Inspect” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.01.070 Authority To Inspect(*Added*)

Enforcement Officials are hereby authorized, in accordance with applicable law and with cause, to enter upon any property or premises to ascertain whether the provisions of the Apple Valley Municipal Code or applicable state codes are being obeyed and to make any reasonable, lawful examination or survey necessary in the performance of enforcement duties, including, but not limited to, determining compliance with the Apple Valley Municipal Code or applicable state codes. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause. If a Property Owner or Responsible Person refuses to allow an Enforcement Official to enter property, the Town shall obtain a search warrant before entering the property.

**SECTION 8:**            **ADOPTION** “16.01.080 False Information Or Refusal Prohibited” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.01.080 False Information Or Refusal Prohibited(*Added*)

It shall be unlawful for any Person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with an Enforcement Official when in the performance of official duties under the provisions of this Title. A violation of this section is a Class B misdemeanor.

**SECTION 9:**            **ADOPTION** “16.02.010 Civil Enforcement Purpose And Authority” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.02.010 Civil Enforcement Purpose And Authority(*Added*)

The Town Council finds that there is a need for a method of enforcement for violations that are minor in nature and not initially or generally desirable to be abated by the Town (if such abatement action is or becomes necessary). The Town Council further finds that an appropriate alternative method of enforcement for violations of this nature is by Civil Enforcement. Violations not of this nature may generally be enforced by procedures associated with a Civil Enforcement, which are described in Section 16.02.010 herein. The procedures established in this subsection shall be an alternative and in addition to other administrative enforcement, including, but not limited to, a notice of violation, monetary fines, criminal violations or any other legal remedy established by law that may be pursued to address violations. The utilization of Civil Enforcement is at the sole discretion of the Enforcement Official.

The Enforcement Official may issue a Civil Enforcement Violation to a Responsible Person for a Violation. A civil penalty shall be assessed and shall be payable directly to the Town Treasurer's Office. Penalties assessed by means of Civil Enforcement shall be collected in accordance with the procedures specified in the remedies section of this Title.

**SECTION 10:**            **ADOPTION** “16.02.020 Notice Of Violation” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.02.020 Notice Of Violation(*Added*)

The Town may impose civil penalties for the violation of any requirement, regulation, ordinance, or other provision of the Municipal Codes. When imposing a civil penalty for violation of any requirement, regulation, ordinance, or other provision of the Municipal Codes, the Town shall follow the procedure of this section. Civil enforcement of any violation is only one option for enforcement. Nothing in this section limits the Town's ability to use criminal proceedings or other enforcement strategies authorized by state law in the resolution of code violations.

A. *Notice of violation.* Upon inspection and discovery that any ordinance, requirement, regulation or other provision of the Municipal Code is being violated, the Enforcement Official or other person designated by the Enforcement Official shall provide written notice of the violation to the property owner as identified by the Washington County Recorder's Office. Written notice of the violation may also be provided to any other responsible party, if different from the property owner of record.

1. The notice of violation shall:

a. Indicate the nature of the violation;



b. Order the necessary action to correct the violation;

c. Establish a reasonable time period for the necessary corrective actions to be completed (the "warning period").

d. State that the property owner and other responsible party (if any) is subject to civil penalties and specify the amount of the civil penalty as well as the date the civil penalties will begin.

B. Referral to Sherriff Department. The Enforcement Official, or other person designated by the Enforcement Official may refer any violation to the Sherriff for an immediate criminal enforcement action, as allowed by state law.

C. Daily violations. If provided in the violation notice, each day a violation is continued or maintained after the date the civil citation is personally delivered or mailed is considered a separate violation and shall give rise to a separate civil penalty for each day of violation. The filing of an appeal does not stop the daily accrual of any penalty unless the Enforcement Official ultimately dismisses the citation.

D. Civil penalties. A violation of any provision of this Code shall result in a civil penalty pursuant to the towns Civil Code Enforcement Fee Schedule.

E. Correction of violation required. The payment of a civil penalty does not relieve the obligation to correct the violation. The property owner or other responsible party is required to correct the violation regardless of whether or not the civil penalty has been paid.

F. Violation appeal. Any person who has received a Notice of Violation and who wishes to dispute the violation may appeal the citation in writing to the Enforcement Official within 15 calendar days after the citation has been delivered or mailed. If a person who has received a citation does not appeal within 15 days, the right to an appeal is lost. In such case, the person shall be responsible for both correcting the violation and paying all applicable civil penalties.

G. Late fees. A late fee will be assessed for any unpaid civil penalty in instances where daily penalties are not accruing (such as when a violation has been corrected on the property but the civil penalty imposed by a notice of violation for the earlier violation has not been paid, or when the violation was transitory and the unpaid civil penalty was only imposed for the period of time the violation existed). In such cases, a late fee equivalent to 25 percent of the civil penalty will be assessed 30 days after the date the civil citation is issued, or 15 days after the date of the appeal hearing, whichever is later. The property owner shall pay any late fee that is assessed in accordance with this section.

H. Collection of civil penalties. The Town may file a civil action to collect any unpaid amount under this section. The violator and any responsible person shall pay for all costs of collection, including but not limited to attorney's fees and costs.

I. The failure of any Person to pay civil penalties assessed within the specified time may result in the Towns pursuing any legal remedy to collect the civil penalties as provided by law.

**SECTION 11:        ADOPTION** “16.02.030 Civil Enforcement Fee Schedule” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.02.030 Civil Enforcement Fee Schedule(*Added*)



**• CIVIL PENALTIES FOR VIOLATION OF ORDINANCES**

1. First Offense = \$500.00
2. Second offense – same within 12 months = \$1,200.00
3. Third or more offense – Same within 12 month = \$2,500.00

Civil penalties assessed for multiple offenses for previously cited violations within a 12 month period shall be in addition the civil penalties assessed on the prior violations for the same offense.

**• ABATEMENT COST**

1. Removal of weeds, garbage, refuse, deleterious objects or structures = \$175.00 per hour.

**• SHORT-TERM RENTAL CIVIL VIOLATIONS**

1. Unlicensed Short-Term Rental = \$1,000.00 per day 2. Any Violation of short-term rental ordinance 10.14.020 = \$1,000.00 per day

**• REINSPECTION FEE = \$250.00**

**SECTION 12:**        **ADOPTION** “16.02.040 Inspections And Compliance” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.02.040 Inspections And Compliance(*Added*)

It shall be the duty of the Responsible Person to request an inspection to be performed by the Town when a Violation cited by Administrative Notice has been corrected. If no inspection is requested, then it shall be deemed prima facie evidence that the Violation remains uncorrected. If more than one inspection is necessary, a reinspection fee shall be assessed for each subsequent inspection.

A Violation is recognized as corrected and resolved only upon the issuance by the Town of a Notice of Compliance.

**SECTION 13:**        **ADOPTION** “16.02.050 Failure To Correct” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.02.050 Failure To Correct(*Added*)

It shall be unlawful for any Responsible Person to fail to comply with the terms and deadlines set forth in a Notice of Violation. Failure by a Responsible Person to bring a Violation into compliance as and when specified in the Notice of Violation may result in, but limited to, any of the following:

1. The assessment of civil penalties owed to the Town against the Responsible Person for each and every subsequent Day of Violation without additional notice to the Responsible Person required.
2. Civil or criminal prosecution actions by the Town against the Responsible Person.

**SECTION 14:**        **ADOPTION** “16.03.010 Emergency Abatement Authority” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.03.010 Emergency Abatement Authority(*Added*)

1. Whenever the Enforcement Official determines that an Imminent Life Safety Hazard exists or any safety hazard that exists in accordance with the International Building Code, International Residential Code, the International Fire Code, and/or the Utah Health Code that requires immediate correction or elimination, the Enforcement Official may exercise any or all of the following powers without prior notice to the Responsible Person:

0. Order the immediate vacation of any tenants, and prohibit occupancy until all repairs and any other necessary remedial actions are completed;

1. Post the premises as unsafe, substandard, or dangerous;

2. Board, fence, or secure the building or site;

3. Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;

4. Make any minimal emergency repairs as necessary to eliminate any Imminent Life Safety Hazard; or

5. Take any other action appropriate to eliminate the Imminent Life Safety Hazard.

2. The Enforcement Official may, based on probable cause, enter or otherwise gain necessary access to property without a search warrant or court order to accomplish the above-listed acts to abate the Imminent Life Safety Hazard.

3. The Responsible Person shall be liable for all costs associated with the abatement of the Imminent Life Safety Hazard. Costs may be recovered pursuant to this Title.

**SECTION 15:** **ADOPTION** “16.03.020 Procedures” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.03.020 Procedures(*Added*)

1. The Enforcement Official shall pursue only the minimum level of correction or abatement necessary to eliminate the immediacy of a hazard. Costs incurred by the Town during the Imminent Life Safety Hazard abatement process shall be assessed and recovered against the Responsible Person, including property (real, personal, intangible or otherwise) that is associated with the subject Imminent Life Safety Hazard.

2. The Enforcement Official may also pursue any other administrative or judicial remedy to abate any remaining Violations (i.e. those that are deemed to not be Imminent Life Safety Hazards)

3. Within ten (10) Days of completion of an abatement of an Imminent Life Safety Hazard, the Town shall serve the Property Owner or Responsible Person with a Notice of Emergency Abatement.

0. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Notice of Emergency Abatement.

**SECTION 16:**        **ADOPTION** “16.03.030 Failure To Comply With Notice Of Violation” of the Apple Valley Municipal Code is hereby *added* as follows:

#### ADOPTION

16.03.030 Failure To Comply With Notice Of Violation(*Added*)

It shall be unlawful for any Responsible Person to fail to comply with the terms and deadlines set forth in a Violation Notice. A violation of this section shall be a Class B misdemeanor. The Town may use all appropriate legal means to recover the civil penalties and administrative costs incurred to obtain compliance.

**SECTION 17:           ADOPTION** “16.03.040 Notice Of Compliance” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.03.040 Notice Of Compliance(*Added*)

When a Violation is purported to be corrected, a Responsible Person shall request an inspection from the Director.

1. When the Enforcement Official receives such request, the Enforcement Official shall inspect the property as soon as practicable to determine whether the Violation has been corrected, and whether all necessary permits have been issued and final inspections have been performed as required by applicable codes.

2. The Enforcement Official shall serve a Notice of Compliance to the Responsible Person or Property Owner in the manner provided in this Title within ten (10) business days of an inspection in which the Enforcement Official finds correction of a Violation and determines that:

0. All Violations listed in the Notice of Violation or Administrative Enforcement Order have been corrected;

1. All necessary permits have been issued and finalized;

2. All assessed civil penalties have been paid; and

3. All assessed costs and administrative fees have been paid.

3. The Town shall record the Notice of Compliance with the Washington County Recorder’s Office, if the related Notice of Violation was recorded. Recordation of the Notice of Compliance shall have the effect of canceling the recorded Notice of Violation.

4. If after inspection, the Enforcement Official determines that the property fails to meet the requirements for a Notice of Compliance, the Enforcement Official shall, upon Written request from the Responsible Person or the Property Owner, provide a Written explanation setting forth the reasons for failure to qualify for a Notice of Compliance. The Written explanation shall be served by any of the methods of service listed in this Title.

5. No delay or omission on the part of the Town to exercise any right or power accruing upon any Violation shall impair any such right or power or shall be construed to be a waiver of any such Violation or acquiescence therein and such right and power may be exercised as often as may be deemed expedient. The Town's issuing of a Notice of Compliance in any instance shall not constitute continuing consent to subsequent instances and in all cases a Notice of Compliance may be granted or withheld at the sole discretion of the Town. No prior Notice of Compliance shall affect any subsequent Violation or shall impair any of the Town's rights or remedies on said subsequent Violation. Every substantive right and every remedy conferred upon the Town may be enforced and exercised as often as may be deemed expedient.

**SECTION 18:**        **ADOPTION** “16.03.050 Prohibition Against Issuance Of Municipal Permits” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.03.050 Prohibition Against Issuance Of Municipal Permits(*Added*)

The Town may withhold or suspend business licenses; permits for kennels; or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on a property on which a Violation exists, or any permits pertaining to the use and development of the real property or the structure where a Violation is located. The Town may withhold such permits until the Director has issued a Notice of Compliance. The Town may not withhold permits necessary to obtain a Notice of Compliance or to correct serious health and safety Violations.

**SECTION 19:**        **ADOPTION** “16.04.010 Authority To Abate” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.04.010 Authority To Abate(*Added*)

Enforcement Officials are hereby authorized, to enter upon any property or premises to abate or cause to be abated a Violation. The town shall assess all costs for abatement to the Responsible Person and may use any remedy available under the law to collect such costs. If additional abatements are necessary within two (2) years, costs may be assessed against the Responsible Person(s) for the actual abatement.

**SECTION 20:**        **ADOPTION** “16.04.020 Procedures For Abatement” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.04.020 Procedures For Abatement(*Added*)

1. Violations may be abated by Town personnel or by a private party acting under the direction of the Town.
2. Town personnel or a private party may enter upon private property in a reasonable manner to abate a Violation as specified in the Notice of Violation or Administrative Enforcement Order.
3. If a Responsible Person abates the Violation before the Town abates the Violation pursuant to a Notice of Violation or Administrative Enforcement Order, the town shall nevertheless assess all costs incurred by the Town against the Responsible Person.
4. When abatement is completed, the town shall prepare a Notice of Itemized Bill for Costs.
5. The town shall serve the Notice of Itemized Bill for Costs by registered mail to the last known address of the Responsible Person. The Notice of Itemized Bill for Costs shall demand full payment within twenty (20) Days to the Town of Apple Valley.
6. The Responsible Person shall have a right to an Administrative Enforcement Hearing to contest the Notice of Itemized Bill for Costs. Such hearing shall be pursuant to an in conformity with this Title.

**SECTION 21:**        **ADOPTION** “16.05.010 Costs And Fees Purpose And Introduction” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.05.010 Costs And Fees Purpose And Introduction(*Added*)



There are three primary categories of costs and fees associated with this Title, as follows:

1. Costs: These are direct costs the Town incurs in carrying out the abatement of Violations, inspection and re-inspection fees, filing fees, attorney fees, Hearing Officer fees, title search, and any additional actual costs incurred by the Town for each individual case.

0. The Town Council finds that costs incurred by Enforcement Officials and the Town to correct Violations should be recovered from the Responsible Person.

1. The Town Council further finds that the assessment of costs is an appropriate method to recover costs.

2. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial civil fees, penalties or fines for Violations.

2. Administrative fees: These are expenses incurred in the administration of this Administrative Code Enforcement program, such as, but not limited to, investigation of Violations, preparation for hearings, hearings and the collection process.

3. Administrative civil penalties: These are penalties or fines assessed for a Violation, separate from costs and administrative fees associated with the same.

**SECTION 22:**        **ADOPTION** “16.05.020 Authority” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.05.020 Authority(*Added*)

1. Whenever the Town incurs costs to enforce the Town Code and applicable state codes, the Town may assess such costs against the Responsible Person, including property (real, personal, intangible, or otherwise) that is associated with a Violation.

2. If more than one inspection is necessary with respect to a Violation, then an inspection fee may be assessed for each subsequent inspection.

0. Notification of re-inspection fees shall be provided in the Notice of Violation served to the Responsible Person.

1. Re-inspection fees assessed or collected pursuant to this subsection should not be included in any other costs assessed, but should be itemized separately.

2. The failure of any Responsible Person to receive notice of the re-inspection fees shall not affect the validity of any other fees imposed under this subsection.

**SECTION 23:**        **ADOPTION** “16.05.030 Failure To Timely Pay Costs” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.05.030 Failure To Timely Pay Costs(*Added*)

The failure of any Person to pay assessed costs by the deadline specified in a Notice of Itemized Bill for Costs shall result in a daily late fee calculated on a simple basis (non-compounding) at the rate of one and one-half percent per month on the unpaid balances.

**SECTION 24:**        **ADOPTION** “16.05.040 Administrative Fees” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.05.040 Administrative Fees(*Added*)

The Enforcement Official is authorized to assess administrative fees for costs incurred in the administration of this Administrative Code Enforcement program, such as investigation of Violations, preparation for hearings, hearings and the collection process. The fees assessed shall be the amount set in the Town fee schedule.

**SECTION 25:** **ADOPTION** “16.05.050 Injunctions” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.05.050 Injunctions(*Added*)

As a civil judicial remedy available to the Town in addition to any other remedy provided under the Town Code or state codes, including administrative remedies or criminal prosecution, any provision of the Town Code may be enforced by injunction issued by a court of appropriate jurisdiction upon a suit brought by the Town.

**SECTION 26:** **ADOPTION** “16.05.060 Recovery Of Administrative Code Enforcement Penalties And Costs” of the Apple Valley Municipal Code is hereby *added* as follows:

ADOPTION

16.05.060 Recovery Of Administrative Code Enforcement Penalties And Costs(*Added*)

This subsection (a) identifies various methods the Town may use to recover administrative code enforcement penalties and costs; and (b) details the Town’s allocation of these collected penalties and costs.

**1. Code Enforcement Tax Liens**

a) **Purpose.** The Town Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs and administrative fees assessed by this Administrative Code Enforcement program or judicial orders. The Town Council further finds that collection of civil penalties, costs, and fees assessed for Violations is important in deterring future Violations and maintaining the integrity of the Town's code enforcement system. The procedures established in this subsection shall be used to complement existing administrative or judicial remedies that may be pursued to address Violations.

**b) Procedures For Tax Code Enforcement Tax Lien Without A Judgment.** The Enforcement Official shall provide a copy of a Notice of Itemized Bill for Costs to the Town Financial Director. Upon receipt of the Notice of Itemized Bill for Costs, the Town Finance Director shall (i) record a code enforcement tax lien as to the Notice of Itemized Bill for Costs against the property upon which a Violation exists with the Washington County Recorder and (ii) if applicable, file the code enforcement tax lien with the Washington County Treasurer. The Town shall serve a notice of the code enforcement tax lien recordation on the Responsible Person and the Property Owner pursuant to any of the methods of service set forth in this Title. The failure of any Person with a financial interest in the property to receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the amounts associated with the code enforcement tax lien.

**c) Procedures For Tax Code Enforcement Tax Lien With A Judgment.** Once a judgment has been obtained from the appropriate court assessing costs against the Responsible Person, the Finance Director may record a code enforcement tax lien against any real property owned by the Responsible Person.

**2. Writ Of Execution.** After obtaining a judgment, the Town may collect the associated obligation by use of all appropriate legal means. This may include the execution on personal property owned by the Responsible Person by filing a writ with the applicable court.

**3. Writ Of Garnishment.** After obtaining a judgment, the Town may collect the associated obligation by use of all appropriate legal means. This may include the garnishment of paychecks, financial accounts, and other income or financial assets by filing a writ with the applicable court.

**4. Allocation Of Civil Penalties.** Collected civil penalties shall be deposited in the General Fund of the Town. Civil penalties deposited in this fund may be allocated pursuant to the Town's budget process and as authorized by applicable law. The Town shall establish accounting procedures to ensure proper account identification, credit, and collection.

**SECTION 27: REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

**SECTION 28: 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 29: EFFECTIVE DATE** This Ordinance shall be in full force and effect immediately after the required approval.

PASSED AND ADOPTED BY THE APPLE VALLEY COUNCIL

\_\_\_\_\_.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Mayor   Michael Farrar	_____	_____	_____	_____
Council Member   Kevin Sair	_____	_____	_____	_____
Council Member   Robin Whitmore	_____	_____	_____	_____
Council Member   Barratt Nielson	_____	_____	_____	_____
Council Member   Janet Prentice	_____	_____	_____	_____

Attest

Presiding Officer

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

\_\_\_\_\_  
Michael L. Farrar, Mayor, Apple Valley