

ORDINANCE NO. 556

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING SECTIONS 1.01.170 AND 1.01.200 OF CHAPTER 1.01 OF TITLE 1 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE RELATED TO ADMINISTRATIVE CITATION PROVISIONS REGARDING BUILDING, PLUMBING, ELECTRICAL, OR OTHER SIMILAR STRUCTURAL OR ZONING ISSUES, AND ILLEGAL CULTIVATION OF CANNABIS; AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, California Government Code Section 53069.4 permits the Town Council to adopt an ordinance imposing administrative fines or penalties for any violations of its Ordinances, subject to providing a reasonable period of time for a person responsible for a continuing violation to correct or otherwise remedy the violation prior to imposition of administrative fines or penalties when the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety; and

WHEREAS, California Government Code Section 53069.4 further permits the Town Council to adopt such an ordinance that provides for the immediate imposition of administrative fines or penalties for the violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis, subject to a reasonable period of time for the correction or remedy of the violation prior to the imposition of administrative fines or penalties if certain conditions are met; and

WHEREAS, the Town Council desires to adopt an Ordinance in order to impose the administrative fines and penalties allowed by the aforementioned statute, subject to the statutorily required correction period, and add a definition for a "responsible person."

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

SECTION 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Subparagraph (q) of Section 1.01.170 of Title 1 of the Town of Apple Valley Municipal Code is amended to read, in its entirety as follows:

"1.01.170 - Definitions.

(q) *Person* means any of the following:

(1) Any natural person, firm, company, corporation, club, trust, or similar

organization, partnership, association, public corporation, political subdivision, public entity, city or town (except the Town of Apple Valley when the context so indicates), the County of San Bernardino, any district in the County of San Bernardino, the State of California, or the United States of America, or any department or agency or any employee, manager, officer, agent, lessee or servant of any thereof, unless this Code expressly provides otherwise.

- (2) A person who causes a code violation to occur.
- (3) A person who maintains or allows a code violation to continue, by his or her action or failure to act.
- (4) A person whose agent, employee, or independent contractor causes a code violation by its action or failure to act.
- (5) A person who is the property owner of real property where a property-related code violation occurs. There shall be a legal presumption that the property owner of record is the owner of a parcel as shown on the latest equalized assessment roll or according to the records of the county assessor or tax collector.
- (6) A person who is a tenant, lessee, or sublessee with the current right of possession of real property where a property-related code violation occurs and a tenant, lessee, or sublessee of a parcel is a person who has notice of any code violation existing on the premises.
- (7) A person who is the on-site manager of a business, or a person actually or apparently in charge of the business.
- (8) A person who, pursuant to California Civil Code Section 2929.3, purchases residential property at a foreclosure sale, or acquired the residential property through foreclosure under a mortgage or deed of trust, where a property-related code violation exists upon the residential property, and the residential property is vacant.
- (9) For purposes of this Section, there may be more than one (1) person for a code violation and more than one (1) violator."

SECTION 3. New subsections (10) and (11) shall be added to subparagraph (f) of Section 1.01.200 of Title 1 of the Town of Apple Valley Municipal Code to read, in its entirety, as follows:

"1.01.200 - Violations.

- (f) Each administrative citation shall contain the following information:

- (10) If the citation is issued for a violation of zoning, building, plumbing, electrical, or similar structural or zoning issues that do not relate to immediate danger to health or safety, a reasonable time shall be designated for compliance, not to exceed thirty (30) calendar days, prior to the imposition of administrative fines or penalties.
- (11) It is unlawful for any property owner in the Town to establish or operate any medical or commercial marijuana business or operation or prohibited residential marijuana cultivation, as defined in Sections 9.29.210(C), 9.29.210(0)(1), 9.29.210(0)(2) and 9.36.230(B) of the Apple Valley Municipal Code, which prohibition shall include renting, leasing to, or otherwise allowing any person to occupy or use such property for such unlawful purposes. Any property owner in the Town where an illegal medical or commercial marijuana business or operation or prohibited residential marijuana cultivation is occurring or found is strictly liable for the offense and may be issued an administrative citation. A citation issued for a violation of zoning, building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements need not include a reasonable time for compliance in the citation when the violation exists as a result of, or to facilitate, the illegal cultivation of marijuana, unless all of the following are true:
- (A) A tenant is in possession of the property that is the subject of the administrative action;
 - (B) The rental property owner or agent can provide evidence that the rental or lease agreement explicitly prohibits the cultivation of marijuana; and
 - (C) The rental property owner or agent did not know the tenant was illegally cultivating marijuana and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal marijuana cultivation."

SECTION 4. CEQA. The Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect of the environment, the activity is not subject to CEQA.

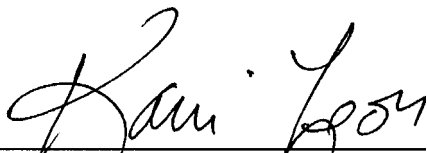
SECTION 5. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are

severable. The Town Council of the Town of Apple Valley hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

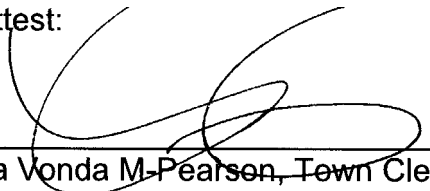
SECTION 6. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

SECTION 7. 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 of the State of California.

APPROVED AND ADOPTED by the Town Council of the Town of Apple Valley, California, at a regular meeting held on the 12th day of July 2022.


Kari Leon, Mayor


Attest:


La Vonda M. Pearson, Town Clerk

Approved as to form:

Thomas A. Rice, Town Attorney

Approved as to Content:

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Douglas B. Robertson, Town Manager

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
TOWN OF APPLE VALLEY

I, LA VONDA M-PEARSON, TOWN CLERK of the Town of Apple Valley, California, hereby certify that the foregoing Ordinance No. 556 was duly introduced on July 12, 2022 and adopted at the Town Council adjourned meeting on July 12, 2022, by the following vote:

AYES: Council Members, Cusack, Emick, Nassif, Mayor Leon.

NOES: None.

ABSENT: Mayor Pro Tern Bishop

ABSTAIN: None.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Apple Valley, California, this 12nd day of July, 2022.

LA VONDA M-PEARSON, CMC
TOWN CLERK



by:

A handwritten signature in black ink, appearing to read "Hannah Raleigh".

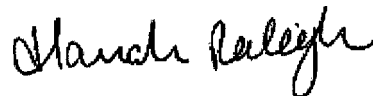
Hannah Raleigh, Deputy Clerk

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
TOWN OF APPLE VALLEY

I, La Vonda M-Pearson, Town Clerk of the Town of Apple Valley, California, do hereby certify that the attached Ordinance No. 556 was adopted on July 12, 2022 by the Town Council of the Town of Apple Valley and has been published in a newspaper of general circulation, published and circulated in the Town in a manner permitted under Section 36933 of the Government Code.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Apple Valley, California, this 12nd day of July, 2022.

LA VONDA M-PEARSON, CMC
TOWN CLERK



Hannah Raleigh, Deputy Clerk

