ORDINANCE NO. 128

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 8, DIVISION 4, CHAPTER 6, SECTION 84.0610 OF THE COUNTY OF SAN BERNARDINO CODE AS ADOPTED BY THE TOWN OF YUCCA VALLEY RELATING TO EXOTIC ANIMALS AND DIVISION 12 RELATING TO DEFINITIONS. (DCA-04-01)

The Town Council of the Town of Yucca Valley, California, does ordain as follows:

SECTION 1. Code Amended

Title 8, Division 12, Section 812.01005 of the San Bernardino County Code as adopted by the Town of Yucca Valley is hereby amended to add the following:

"**Exotic Animal:** Means any animal of the class Aves (birds), class Mammalia (mammals), class Amphibia (frogs, toads, salamanders), class Osteichtyes (bony fishes), class Monorhina (lampreys), class Reptilia (reptiles), class Crustacea (crayfish), or class Gastropoda (slugs, snails) that are restricted by the State.

Zoo: Means a zoological garden or other collection of exotic animals which are raised, bred, trained and/or maintained for on-site display that is open to the general public, education, tours and exhibition which is accredited by the American Zoo and Aquarium Association (AZA).

Title 8, Division 4, Chapter 6, Section 84.0610 of the San Bernardino County Code as adopted by the Town of Yucca Valley is hereby amended to read as follows:

Section 84.0610

84.0610 Exotic Animals.

(a) The keeping of exotic animals as defined in *Title 8 Division 12 Definitions* shall be permitted as an accessory use to single dwelling unit in accordance with this Code as follows:

(1) Any exotic animal as defined in *Title 8 Division 12 Definitions* with a State Fish and Game caging requirement of 50 square-feet or less and kept within an enclosed building shall be permitted provided the applicant registers said animal(s) on a form to be provided by the Town's Animal Control Section. The applicant must provide a copy of the applicant's State Department of Fish and Game permit for each animal(s) registered.

(2) The keeping or maintaining of exotic animals on any property within the Town with a State Department of Fish and Game caging requirement of up to 149 square feet may be permitted as an accessory to a single family dwelling located within the Large Animal Overlay District subject to the provisions of this code. A Special Use Permit is required for the keeping or maintaining of up to two exotic

animals and a Conditional Use Permit is required for the keeping or maintaining of 3 to 4 exotic animals.

(3) Any exotic animal with a caging requirement of 150 square-feet and greater is prohibited as an accessory use to a single family dwelling, except as a zoo.

(4) The keeping or maintaining of any exotic animal(s) for on-site display open to the general public shall be permitted subject to the issuance of a Conditional Use Permit by the Planning Commission and the further requirements of this code for the establishment of a zoo.

(b) **Procedures and Requirements for Conditional Use Permit and Special Use Permit.**

(1) Prior to giving a public hearing notice, the reviewing authority shall request that a Veterinarian that is recognized by the Department of Fish and Game submit a statement regarding the particular animal's mature behavior and personality characteristics specific to the animals being requested.

(2) Any action to approve a request for an exotic animal shall not be effective until written evidence is received by the Director that the applicant has received a permit from the State Department of Fish and Game.

(3) A Special Use Permit or Conditional Use Permit for the keeping of an exotic animal shall be noticed in accordance with Section 83.010205 (*Public Hearing).*

(4) Applicant shall provide any documentation or written notice received from State Department of Fish and Game regarding prior violations and corrective action pertaining to the keeping of the animal(s). Following the application submittal, Planning staff shall send a written letter to the State Department of Fish and Game requesting information on any prior violations and what the corrective measures were.

(c) **General Standards for Conditional Use Permit and Special Use Permit**:

(1) A person may keep or maintain in their possession or control an exotic animal with a caging requirement ranging from 51 to 149 square-feet on any property within the town on any parcel zoned for single family residential purposes only as specifically authorized by the provisions of this chapter and the site is located within areas identified on the Town adopted *Large Animal Overlay District Map.*

(2) The keeping of the animal(s) must comply with all setback requirements of *Section 84.0560*(d)(1)(B) (*Accessory Large Animal Keeping).*

(3) The keeping of exotic animals as allowed by this Code shall be subject to the following parcel size and density restrictions:

Min. State Fish & Game Caging Req.	Minimum Parcel Size/Density
Animals which are normally maintained in aquariums, terrariums, bird cages or similar devices, each of which does not exceed a floor area of fifty (50) square-feet and where such devices/cages are maintained within an enclosed building.	None
Requires a floor area of 50 sq. ft. or less per animal which are not maintained within an enclosed building.	1 per10,000 sq. ft. Maximum of 4
Requires a floor area between 51 sq. ft. and 99 sq. ft. per animal which are not maintained within an enclosed building	1 per 20,000 sq. ft. Maximum of 4
Requires a floor area between 100 sq. ft and 149 sq. ft. per animal which are not maintained within an enclosed building.	1 acre minimum. 20,000 sq. ft for every additional animal. Maximum of 4

(4) If the permit being requested from the Department of Fish and Game is an Exhibiting Permit that includes public on-site display of the animal(s), the following provisions shall apply:

(A) A minimum parcel size of 20 acres shall be required for a facility that proposes any public on-site display of the animal(s).

(B) Visitor parking shall be provided in accordance with the *Parking Code.*

(C) Permanent restroom facilities shall be provided in accordance with the *Uniform Building Code (U.B.C)* and San Bernardino County Health Department requirements.

(D) All appropriate off-site improvements including access to the facility must be in existence or be constructed prior to the housing of any animal.

(E) The facility shall be accredited by the American Zoo and Aquarium Association (AZA).

(F) Any applicant proposing a zoo facility within a residential land use district or on a site that abuts a residential land use district shall include with the application written consent to the approval of the zoo facility dated within ninety days prior to the filing of such application from each owner(s) of property within 1,325 feet of the lot on which the facility is proposed.

(d) **General Conditions for Conditional Use Permit and Special Use Permit.** Any action to approve a request for an exotic animal shall include the following conditions in addition to any conditions deemed appropriate by the reviewing authority:

(1) The keeping of the animal must comply with all Town Code requirements including setbacks from property lines and other dwellings.

(2) The keeping/caging of the animal must comply with all applicable Federal and State requirements.

(3) Each animal must have sufficient area to be maintained and exercised in a normal healthy manner as determined by the State Department of Fish and Game.

(4) Each permit shall specify the annual renewal period and inspection requirements. Permits for any animal shall be issued for a period not to exceed twelve (12) months.

(5) The applicant agrees to allow reasonable inspection of the property by Animal Control staff and/or designee to ensure compliance with the Conditions of Approval. Inspections shall include, at a minimum, one inspection per year following approval of the permit and at each renewal. At such time the applicant shall provide Animal Control written documentation/ records from a qualified veterinarian that the animal(s) are being properly cared for.

(6) Upon the renewal of the permit and inspection, the applicant shall supply written documentation from the State Department of Fish and Game that the facility and the keeping of the animals is in compliance with all Federal and State requirements.

(7) The applicant obtains a permit from the State Department of Fish and Game.

(8) All cages shall be constructed by a licensed contractor and shall provide certification that the cages were constructed and installed in accordance with the approved plans and all State and/or Federal caging requirements.

(9) The area where the animals are to be kept shall be screened from public view.

(10) The applicant/owner shall agree to defend, indemnify, and hold harmless the Town, its agents, officers, or employees from any claim, action, or proceeding against the Town or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Town an advisory agency, appeal board or legislative body concerning the permit or any other action relating to or arising out of such approval.

Any condition of approval imposed pursuant to the provisions of this condition shall include a requirement that the Town promptly notify the applicant of any claim, action, or proceeding and that the Town cooperate fully in the defense. If the Town fails to promptly notify the applicant of any claim, action, or proceeding, or if the Town fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the Town harmless.

If any provisions of this condition is found invalid by a court of law, the remaining provision of this condition shall remain in full force and effect.

(11) The occupant of the premises on which the exotic animal is kept shall keep and maintain the animal(s) and the premises in such a manner as not to be detrimental to the health, safety or welfare of any person on any adjoining property or of the

general public. Such maintenance shall be at least sufficient to keep dust, odor, and flies from having an adverse effect on any other property.

(12) Immediate notification shall be given to the Department of Fish and Game, San Bernardino County Sheriff Department, and Town of Yucca Valley Animal Control in the event the animal(s) escape from the premises.

(13) Prior to occupancy of the site by any exotic animal, the applicant shall develop a comprehensive emergency plan for State Department of Fish and Game, local police and Animal Control for review and approval. This comprehensive plan of action shall be developed to address the following situations:

(A) Damaged to the enclosures. Temporary holding facilities shall be identified. Necessary mechanisms to safely transport the animal(s) to another holding enclosure shall be on hand.

(B) Animal attacking and/or injuring humans: include a list of safety equipment that will be available for use.

(C) Escape of animal from its enclosure: recapture plans shall outline the procedures for handling and recapture of the escaped animal(s), equipment to be used, people to be contacted, various restraint methods, including conditions which warrant the use of lethal force.

(14) Prior notification of inspection is not required if Town Animal Control staff has reason to believe the health and safety of the public or the animal is in danger if there is a delay.

(15) Any excessively 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 animals is kept or harbored shall be considered a nuisance.

(16) Prior to occupancy of the site with any exotic animal as approved under a SUP or CUP, the applicant shall provide proof of their ability to respond in damages to and including the amount of one hundred thousand dollars ($100,000.00) by obtaining a policy of insurance coverage in said amount for bodily injury or death of any person(s) or for damage to property owned by any other person which may result from the ownership, keeping or maintaining of an exotic animal(s). Proof of liability shall be provided as required by this ordinance in a form approved by the Town Attorney, a certificate of insurance issued by a solvent corporation authorized to issue bonds under the laws of the State. Such certificate of insurance or bond shall be provided that no cancellation of the insurance or bonds will be made unless thirty (30) days written notice is first given to the Town Community Development Planning Section.

(e) **Findings for Conditional Use Permit and Special Use Permit:** Prior to taking action to approve a Special Use Permit or Conditional Use Permit for any exotic animal(s), the reviewing authority shall find and justify that all of the following are true:

(1) That the impacts which could result from the keeping of exotic animal(s), and the proposed location, size, design and operating characteristics of the animal and/or

use, and the conditions under which it would be operated or maintained will not be considered to be detrimental to the public health, safety and welfare of the community or be materially injurious to properties and/or improvements within the immediate vicinity or be contrary to the General Plan;

(2) Adequate safeguards have been established and will be maintained that effectively control all dangerous or vicious propensities of such animals;

(3) That the proposed animal keeping will comply with each of the applicable provisions of the Development Code, and applicable Town policies, except approved variances and State and Federal requirements;

(4) That the location of the animal keeping area and any proposed structures and improvements are compatible with the site's natural landform, surrounding sites, and structures.

(5) That the proposed animal keeping will not create such an attractive nuisance by nature of its existence that it would draw undue attention to the activity by an increase in foot or vehicular traffic to the surrounding neighborhood or might entice the general public onto the property.

(f) **Revocation of Permit:** A Conditional Use Permit or Special Use Permit may be revoked by the Town Council if any one of the following findings can be made:

(1) That the permit was obtained by misrepresentation or fraud.

(2) That the use for which the permit was granted has ceased or has been suspended for six or more consecutive months.

(3) That the use is in violation of one or more of the Conditions of Approval.

(4) That the use is in violation of any State or Federal requirement."

SECTION 2. NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this 18th day of April, 2002.

Bill Neeb
MAYOR

ATTEST:

Janet M. Andrews

Town Clerk

APPROVED AS TO FORM:

Town Attorney

APPROVED AS TO CONTENT:

Town Manager

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STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California hereby certify that the foregoing Ordinance No. 128 was duly and regularly introduced at a meeting of the Town Council on the 4th day of April, 2002, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the Town Council on the 18th day of April, 2002, by the following vote, to wit:

Ayes: Council Members Cook, Earnest, Leone, Scott and Mayor Neeb

Noes: None

Absent: None

Abstain: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Yucca Valley, California, this 22nd day of April, 2002.

(SEAL)

Town Clerk of the Town of
Yucca Valley