

STAFF REPORT



PARKS AND RECREATION

DATE: February 27, 2024

TO: Justin Hess, City Manager

FROM: Marisa Garcia, Park, Recreation and Community Services Director
VIA: Kristen Smith, Park, Recreation and Community Services Assistant Director
BY: Brenda Castaneda, Animal Shelter Superintendent

SUBJECT: Introduction of an Ordinance for Potentially Dangerous and Vicious Animals

RECOMMENDATION

Introduce AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING ARTICLE 16, POTENTIALLY DANGEROUS AND VICIOUS ANIMALS IN CHAPTER 1 ANIMALS, TITLE 5 OF THE BURBANK MUNICIPAL CODE (Attachment 1).

BACKGROUND

Over the years, the City of Burbank (City) has experienced a rise in cases of aggressive dogs that have caused harm to members of the public. These cases result in various degrees of bodily harm and impose threats to the public health and safety of the community. Since 2020, the Burbank Animal Shelter (BAS) has dealt with 18 Potentially Dangerous Dog cases and eight Vicious Dog cases.

The Burbank Municipal Code (BMC) does not have a section outlining a process for addressing Potentially Dangerous or Vicious dogs. Staff currently utilizes the CA Food & Agricultural Code § 31602-31663 (Attachment 2), to manage enforcement of dog bite cases and have dogs designated as either Potentially Dangerous or Vicious. The current process is extensive and requires the City Attorney's Office (CAO) to prepare declarations and petition the Los Angeles (LA) Superior Court for a hearing. Hearing dates are usually set several weeks out while dogs are impounded at the BAS and all parties involved await resolution. Should an owner with a potentially dangerous dog want to bypass the hearing process, they currently have the option to enter into an agreement with BAS for three years outlining terms and conditions that must be followed. The owner must comply with

terms and conditions such as: microchipping, quarterly inspections of owner's residence and a securely fenced yard. Muzzling of the dog is also required while out in public and the dog must be restrained by an appropriate length leash controlled by an adult. BAS has nine Potentially Dangerous Dog Agreements currently in place with owners. At times, owners won't agree to the terms and conditions for their potentially dangerous dog and BAS must pursue a court hearing. Dogs that have inflicted severe bites and are categorized as vicious can be relinquished by owner to BAS to be euthanized instead of going through the hearing process.

Staff is requesting adoption of the Potentially Dangerous and Vicious Animals Ordinance (Ordinance) to provide BAS with an internal process that would lead to more timely court hearings, quicker resolutions overall, and BMC language addressing how the City wishes to address such cases in the interest of public safety.

DISCUSSION

The severity of a dog bite determines the designation that may be imposed on the involved dog. The designation possibilities are Potentially Dangerous and Vicious. The following are the CA Food & Agricultural Code definitions of a Potentially Dangerous Dog (§ 31602) and Vicious Dog (§ 31603).

Potentially Dangerous Dog (any of the following):

- (a) Any dog which, when unprovoked, on two separate occasions within the prior 36-month period engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog.
- (b) Any dog which, when unprovoked, bites a person causing a less severe injury than as defined in Section 31604.
- (c) Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.

Vicious Dog (any the following):

- (a) Any dog seized under Section 599aa of the CA Penal Code and upon the sustaining of a conviction of the owner or keeper under subdivision (a) of Section 597.5 of the CA Penal Code.
- (b) Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being.
- (c) Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues the behavior described in Section 31602 or is maintained in violation of Section 31641, 31642, or 31643.

CA Penal Code § 599aa (Attachment 3) and CA Penal Code § 597.5 (Attachment 4) are included for reference. CA Food & Agricultural Code § 31604 defines a severe injury as any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery. CA Penal Code § 597b and CA Penal Code § 597t (Attachment 5) are also included as they are referenced in the proposed Ordinance.

The current process in designating dogs involves the CAO petitioning the LA Superior Court for a hearing to determine if a dog that has bitten is potentially dangerous or vicious. Staff from the BAS and the CAO attend the hearing in Downtown Los Angeles. As the courts are overwhelmed, there are delays in obtaining hearings within a reasonable amount of time, requiring the offending dogs to remain at the BAS for several weeks.

Implementation of the proposed Ordinance would allow the City to hold hearings through Data Ticket, the City's Administrative Citation processor, eliminating the need for the CAO to petition the LA Superior Court. Hearings would be held within five to ten days after notice is served to the offending dog's owner, significantly shortening the amount of time all involved parties currently wait for resolution. Data Ticket can accommodate virtual hearings when requested, allowing for additional convenience for all parties involved. Data Ticket assigns independent hearing officers experienced in animal related cases to preside over hearings. Should a dog owner contest the determination of the hearing officer, they may appeal the decision to the LA Superior Court. The determination of the LA Superior Court shall be final and conclusive.

The proposed Ordinance includes several provisions to address the concerns of dog aggression within the City. It defines Potentially Dangerous and Vicious animals based on objective criteria such as history of aggression, bite severity, number of bite incidents and containment issues.

Currently, owners of dogs meeting criteria to be designated as Potentially Dangerous must comply with specific containment requirements such as extra security measures to ensure secure enclosures in the home, muzzling, and secure containment when the dog is out in public. In addition to being required to register their dog with the City and maintaining a current rabies vaccine for their dog, the proposed Ordinance will require that the dog is microchipped and spayed or neutered, if applicable, along with mandated training classes. An additional Potentially Dangerous Animal \$150 registration fee will also be required. Moreover, owners of dogs designated as Potentially Dangerous may be required to carry insurance coverage for bodily injury, death, and property damage and allow Animal Control Officers to inspect the area where the dog is kept as needed. Fines have been included in the proposed Ordinance to address compliance issues. Additionally, the CAO has the option of initiating criminal proceedings if necessary. The Potentially Dangerous Animal designation will be removed 36 months from the designation, if there are no additional bite behavior incidents.

Any animal determined to be vicious may be euthanized if it is determined that it poses a significant threat to public safety, and the owner may be prohibited from owning or possessing another animal for three years. Other cities that have similar ordinances include Pasadena, Rancho Cucamonga, and Barstow. The proposed Ordinance will promote responsible dog ownership in the City and establish guidelines to address the issue of negligent owners who fail to control their pets resulting in such incidents.

PROPOSED BMC AMENDMENTS

Staff is requesting that Council approve the addition of Article 16, Potentially Dangerous and Vicious Animals to the BMC (Attachment 1).

ENVIRONMENTAL REVIEW

This activity is not expected to cause any direct physical changes in the environment or reasonably foreseeable indirect physical changes. Therefore, it does not qualify as a 'project' under the California Environmental Quality Act (CEQA) 14 Cal. Code Regs § 15378.

FISCAL IMPACT

Hearing services provided by Data Ticket Inc. are included in the existing contract and budgeted with the Parks & Recreation Department's Annual Fiscal Year (FY) budget allocation and will not result in an additional cost to the City.

The City will receive additional revenue from the collection of Potentially Dangerous Animal Registration fees. This \$150 registration fee was approved as part of the Fee Schedule with the FY 2023-2024 Budget Process. The Potentially Dangerous Animal Registration fee is primarily meant to hold owners of dogs with this designation accountable and allow enforcement of additional requirements in the interest of public safety.

CONCLUSION

The implementation of a Potentially Dangerous and Vicious Animal Ordinance in the BMC is necessary to ensure the welfare and safety of the community. It is consistent with the City's goals of creating a healthy and safe city for all residents.

ATTACHMENTS

Attachment 1 – Proposed Ordinance

Attachment 2 – CA Food & Agri Code Sections: 31641, 31642, 31643, 31601 - 31663

Attachment 3 – CA Penal Code § 599aa

Attachment 4 – CA Penal Code § 597.5

Attachment 5 – CA Penal Code § 597b and CA Penal Code § 597t

Correspondences