



# TOWN OF APPLE VALLEY

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor and Town Council

**Date:** June 25, 2013

**From:** Gina Schwin-Whiteside  
Animal Services Manager  
Animal Services Department

**Item No:** 12

**Subject:** DISCUSSION REGARDING PIT BULLS

**T.M. Approval:** \_\_\_\_\_

**Budgeted Item:**  Yes  No  N/A

### RECOMMENDED ACTION:

That the Town Council direct staff to complete one or more of the following options and direct staff to bring back revisions to the Town's Municipal Code in the form of an Ordinance:

1. Introduce a code revision for Mandatory Spay/Neuter of Pit Bull type breeds, impounded animals residing in the Town of Apple Valley, and establish a Breeder's permit of \$250
2. Continue the current enforcement approach of Chapter 15.03, Potentially Dangerous or Vicious or Public Nuisance Animals
3. Introduce an annual Public Nuisance or Potentially Dangerous or Vicious Animal Permit in addition to the regular dog license and provision to prohibit owner's of vicious dogs from owning, possessing, controlling, or having custody of any dog for a period of three-years

### SUMMARY:

At the request of Councilwoman Stanton, staff has prepared several options for regulating pit bull type breeds and public nuisance animals within the Town's boundaries. Consistent with the Town's past practice, prudent consideration was given to ensure compliance with existing laws. These options include, mandatory spay/neuter of pit bull type breeds, impounded animals, provisions for a breeder's permit, and prohibiting owners identified as owning vicious dogs from keeping any dog for three years. Most important, the direction requested by staff in this report is to continue with the enforcement of Title 15, of the Town's Municipal Code regarding potentially dangerous or vicious or public nuisance animals. The overall goal of these provisions are to ensure the health and safety of our community.

## **BACKGROUND:**

Councilwoman Stanton requested that staff research and provide options for regulating Pit Bull type breeds within the Town of Apple Valley. Staff and the Town's legal counsel confirmed that dog breed-specific ordinances are regulated in California Health and Safety Code section 12233, which allows cities and counties to enact regulations pertaining "*only to mandatory spay or neuter programs and breeding requirements, provided that no specific dog breed, or mixed dog breed, shall be declared potentially dangerous or vicious under these ordinances.*" Cities that implement mandatory spay or neuter and breeding programs are required to compile and submit detailed statistical information on dog bites on a quarterly basis.

After researching various breed-specific ordinances throughout the State, existing shelter data, the Town's adopted code regulating potentially dangerous or vicious or public nuisance animals, and current legislation, staff has prepared several options for Council consideration. These options include: (1) Mandatory spay/neuter of pit bull type breeds residing in Apple Valley; Mandatory spay/neuter of animals impounded into the Town's Municipal Shelter prior to returning-to-owner; and an annual Breeder's Permit of \$250 for any dog that is still unaltered the second year the dog license is renewed in addition to the regular unaltered dog license fee (2) Continue the current enforcement approach of Chapter 15.03, Potentially Dangerous or Vicious or Public Nuisance Animals; and (3) Annual fees for potentially dangerous, vicious, or public nuisance animals; and prohibiting ownership of a dog by an individual that was determined to be in possession of a vicious animal. *(Options 1-3 in Detail Attached)*

These options are in compliance with State Law and support the goals of Apple Valley Animal Services to promote responsible pet-ownership, reduce unwanted litters, and protect the health and safety of the community. Staff believes that effective enforcement programs must provide provisions to assist residents with compliance. We will continue to pursue grants and fundraising to provide spay/neuter assistance to those in need. Together we can continue to provide a "*Better Way of Life*" for the animals in our community – four paws at a time.

## **STATISTICAL DATA:**

The American Veterinarian Medical Association reports that each year: *More than 4.5 million people in the U.S. are bitten by dogs; Almost one (1) in five (5) people bitten by dogs require medical attention; Every year, more than 800,000 Americans receive medical attention for dog bites (at least half of them are children); Children are, by far, the most common victims of dog bites and are far more likely to be severely injured; Most dog bites affecting young children occur during everyday activities and while interacting with familiar dogs; Senior citizens are the second most common dog bite victims.*

Communities located within a rabies identified area are required to quarantine any warm-blooded animal when the skin is broken. The County of San Bernardino is a rabies identified area, thus the importance of vigilant enforcement for rabies and licensing requirements is necessary to protect the health and safety of Town residents.

As of March 2013\*, there are 11,500 dogs registered in the Animal Services' licensing database. In 2012, there were 11,041 and in 2011, there were 10,500 licensed dogs. Staff reviewed Bite Reports during these same years and found the following:

**Bite Report Statistics Per Annual Year**

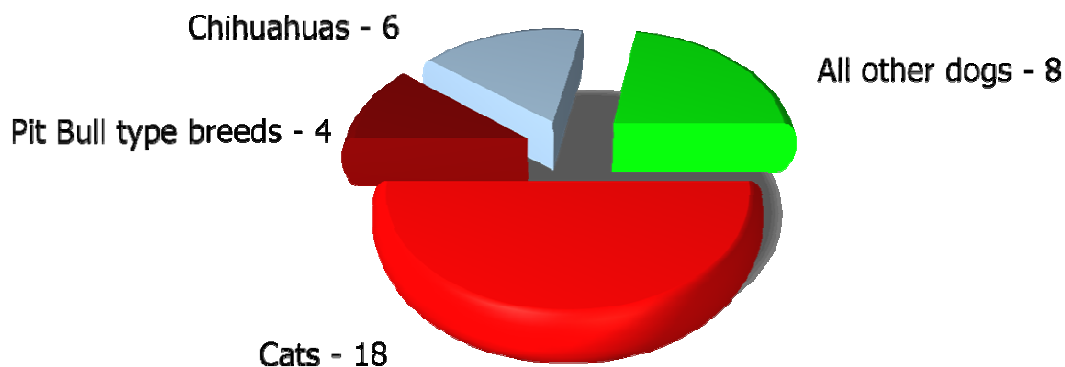
Year	Licensed Dogs	Bites**	% Bites/Licensed dogs	Pit Bull Type	% Pit Bull/ Bites
2011	10,500	121	1.2%	24	20%
2012	11,041	149	1.3%	27	18%
2013*	11,500	66	.6%	19	29%

\*\*Based on bites reported to Apple Valley Animal Services during the annual year

It is important to note that for 2011 through 2013\*, of the three-hundred thirty-six (336) reported bites, forty-nine (49 or 15%) were cats, two (2) were gophers and thirty-six (36 or 11%) occurred at the Town's Municipal Animal Shelter when staff or visitors interacted with the animal in a new or busy environment.

**Total Bites at the Shelter - 36**

January 1, 2011 thru March, 2013



Staff also reviewed the total bite statistics to see how many of the dogs did not have a current license and rabies vaccination:

Year	Expired License/Rabies	# of Pit Bull Type
2011	44	13
2012	46	12
2013*	44	13

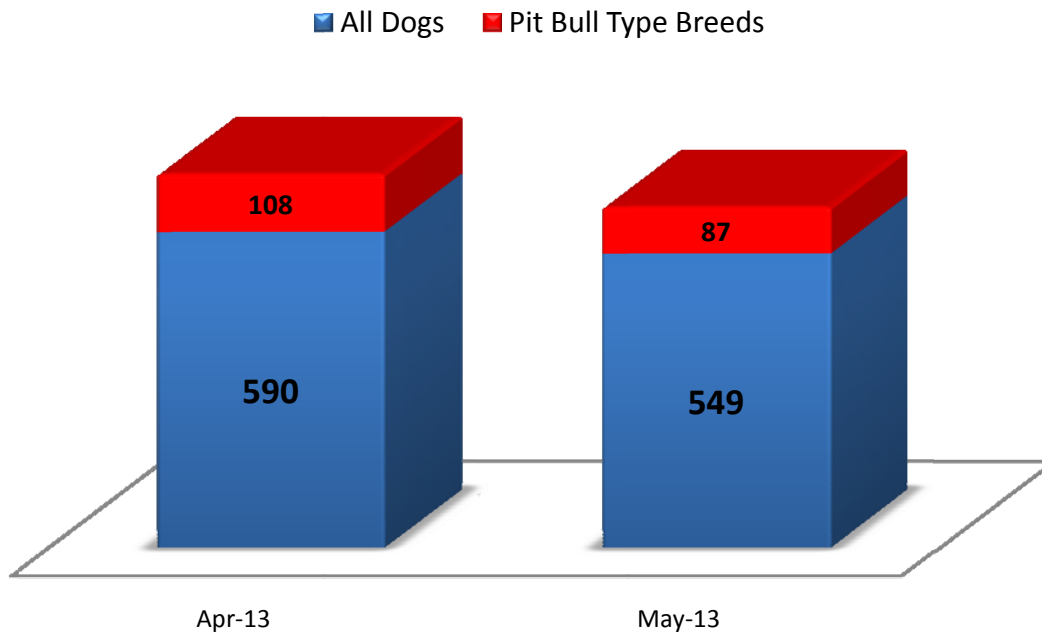
Further, in 2011, sixty-three (63) of the reported bites occurred on the property where the dog resided. In 2012, seventy-nine (79) and in 2013, forty-two (42) of the reported bites occurred on the dog's property. Bites occurring on the animal's own property account for fifty-five percent (55%) of all reported bites from 2011 through March of 2013.

**FISCAL IMPACT:**

Based on Animal Services' database, there are an estimated 639 unaltered pit bull type breeds licensed (current/expired). The annual revenue for these licenses would be \$47,925 at the unaltered rate. Once altered, the annual fee to license these 639 pit bull type dogs would be \$12/year or \$7,668.

Costs savings could result from a reduction of impounded pit bull type breeds at the Municipal Animal Shelter and fewer calls for service associated with pit bull type breeds running loose within the Town's boundaries.

**Dog Intake 4/2013 and 5/2013**



## **ATTACHMENT** **OPTIONS 1 – 5 IN DETAIL**

### **Option 1: Mandatory Spaying and Neutering of Pit Bulls; Exceptions**

No person may own, keep, or harbor any dog within the Town limits that the person in possession knew, or should have known, was a pit bull that has not been spayed or neutered unless:

The pit bull is under eight weeks of age.

The pit bull cannot be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to a physical abnormality. A veterinarian must certify such a condition; determine a time frame after which the pit bull can be spayed/neutered. Within thirty (30) days of the operative date of this ordinance, or within thirty (30) days of taking possession of or ownership of an unsprayed or unneutered pit bull, the owner, guardian, or keeper must submit such documentation to be verified by the Animal Services Department.

The pit bull has been present in the Town for less than thirty (30) days.

The owner, guardian, or keeper has obtained, or has submitted an application for a breeding permit in accordance with this code.

Determination of breed is under appeal pursuant to this code.

The pit bull is a show dog. Within thirty (30) days of the operative date of this ordinance, or within thirty (30) days of taking possession or ownership of an unsprayed or unneutered pit bull, the owner, guardian, or keeper must submit a copy of the organization papers (AKC or UKC) to the Animal Services Department demonstrating the pedigree information and show dog registration and that the dog conforms to the same breeding permit guidelines set forth in this chapter.

### **Mandatory Spaying and Neutering of Impounded Animals**

Impounded animals that are not altered and have a documented history of running at-large, previous impoundments, expired license tags, or repeated violations of this code, shall be sterilized prior to being returned-to-owner from the possession of the Town's Municipal Animal Shelter. Exceptions to this provision will require the animal owner to obtain a Breeder's Permit as defined herein or a written statement from a licensed veterinarian that the animal cannot reproduce or the procedure would be detrimental to the animal's health. Medical exceptions do not qualify the animal for a reduced altered annual license fee.

### **Breeder's Permit**

The owner of a dog or animal not altered in the second year it is licensed shall obtain a breeder's permit at the annual cost of \$250 per year in addition to the regular license.

**Option 2: Continue Enforcement of Title 15, of the Apple Valley Municipal Code related to Potentially Dangerous, or Vicious, or Public Nuisance Animals**

**15.03.010 Declaration of Public Nuisance**

It is the purpose and intent of this Chapter to establish the Town's own program, including procedures for the control of potentially dangerous or vicious dogs or animals, as recognized by Section 31683 of Chapter 9 (entitled "Potentially Dangerous And Vicious Dogs") of Division 14 of the California Food and Agricultural Code, which allows the Town impose a more restrictive program to control potentially dangerous or vicious dogs Except as provided in Section 122331 of the Health and Safety Code, no program regulating any dog shall be specific as to breed.

Attacks by potentially dangerous or vicious dogs or animals on human beings and domestic animals are attributable to the failure of owners to register, confine and properly control vicious potentially dangerous dogs.

Potentially dangerous or vicious dogs or animals are hereby declared a public nuisance.

**15.03.020 Definitions**

- A. Potentially Dangerous Dog or Animal is defined as any of the following:
1. Any dog or animal which when unprovoked, on two (2) separate occasions within the prior thirty-six (36) month period, engages in any behavior which requires a defensive action by any person to prevent bodily harm when the person and the dog or animal are off the property of the owner or keeper of the dog or animal.
  2. Any dog or animal which, when unprovoked, bites a human being.
  3. Any dog or animal, when unprovoked, on two (2) separate occasions within the prior thirty-six (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 such dog or animal.
  4. Any dog or animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of human beings or domestic animals.
  5. Any dog or animal, which on three (3) separate occasions within a twelve (12) month period, was observed being unrestrained off its owner's premises by an Animal Services or Code Enforcement Officer or private citizen of the Town of Apple Valley or was apprehended and/or impounded on three (3) separate occasions for being unrestrained or uncontrolled off its owner's premises.
- B. Vicious Dog or Animal is defined as any of the following:

1. Any dog or animal seized under Section 599.a.a of the Penal Code and upon the sustaining of a conviction of the owner or keeper under subdivision (a) of Section 597.5 of the Penal Code.
2. Any dog or animal which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being. Severe injury means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.
3. Any dog or animal previously determined to be, and currently designated as, a "Potentially Dangerous or Vicious Dog or Animal" which, after its owner or keeper has been notified of its determination, continues the behavior described in paragraph "A" above.
4. Any dog or animal currently listed and determined to be a potentially dangerous or vicious dog or animal, which is not properly licensed and vaccinated, not properly restrained and/or maintained on the owner's property.

**15.03.030 Declaring an Animal or Dog Potentially Dangerous or Vicious.**

If an Animal Services Officer, Code Enforcement Officer or Law Enforcement Officer has investigated and determined that there exists probable cause to believe that a dog or animal is potentially dangerous or vicious and has two (2) or more filed sworn to and verified statements of facts received from witnesses, the Animal Services Manager, or designee, may set a hearing for the purpose of determining whether or not the dog or animal in question should be declared potentially dangerous or vicious. The Animal Services Manager shall notify the owner or keeper of the dog or animal, and when applicable the property owner where the dog or animal is kept, that an administrative hearing will be held by the Town of Apple Valley, at which time said owner, keeper and/or property owner may present evidence as to why the dog or animal in question should not be declared potentially dangerous or vicious. The owner or keeper of the dog or animal and/or property owner shall be served with notice of the hearing, either in person, by first class mail or by certified mail with return receipt requested at the owner's last known address, not less than five (5) days, nor more than ten (10) days, before the time set for the hearing. Service shall be deemed complete at the time the notice is personally served or deposited in the mail. Failure of any person to receive such notice shall not affect the validity of any proceedings thereunder. The hearings shall be open to the public. The Town Manager or designee shall conduct the administrative hearing.

Notice shall be substantiated in the form set forth below:

A Notice of Administrative Hearing for determination and disposition of Potentially Dangerous or Vicious Dogs or Animals.

This is a Notice of Administrative Hearing before the Town of Apple Valley Town Manager or designee to determine whether your dog or animal (name of dog or animal, description

of animal if available) is a potentially dangerous or vicious dog or animal. If your dog or animal is found to be potentially dangerous and/or vicious as defined by the Town of Apple Valley Municipal Code Section 15.03.020 the Town Manager or designee as Hearing Officer may issue any one or more but not limited to the following orders:

1. Dog or animal shall be properly licensed and vaccinated.
2. Dog or animal shall be maintained on owner's property and be kept indoors or in a securely fenced yard from which the dog or animal cannot escape. When applicable, tenants must have the property owner's written authorization.
3. Dog or animal shall be maintained in a covered chain-link run with cement flooring and locked gate from which the dog or animal cannot escape and into which children cannot trespass.
4. The dog or animal cannot be off the owner's premises unless it is restrained by a substantial leash and muzzled (if appropriate) under the control of a responsible adult.
5. If the dog or animal dies or is sold, transferred or permanently removed from the Town of Apple Valley where the owner resides, the owner shall notify the Town of Apple Valley of the changed condition and new location of the dog or animal within two (2) days in writing.
6. The dog or animal shall be destroyed.
7. The dog or animal owner shall pay all costs incurred by the Town of Apple Valley for housing, maintenance, feeding, vet care during such time the dog or animal is in the custody of the Town of Apple Valley. Animal Keeping is a permitted use based on the zoning designation of the property. Ultimate responsibility falls to the property owner regarding ongoing violations and unpaid costs. This provision does not prevent the Town from pursuing the dog or animal owner for any costs incurred.
8. Dog or animal shall be required to be sterilized.
9. Any person keeping or harboring any dog or animal deemed vicious within the Town of Apple Valley must provide proof of ability to respond in damages up to one hundred thousand dollars (\$100,000.00) by obtaining a policy of insurance coverage in said amount for bodily injury to, or death of, any person or persons or for damage to property owned by any other person or persons which may result from the ownership, keeping or maintenance of such dog or animal.
10. You have five (5) days from the date you receive the written notice of the findings and orders in the hearing to comply with required corrections and pay all fees and/or fines associated with this hearing. On day six (6) the dog or animal will become property of the Town and be disposed of.
11. Animal Services has the right to inspect the property at any time for violations of the findings and orders in the hearing. In the event the owner fails to meet the required



conditions from the findings and orders in the hearing, Animal Services may impound the dog or animal and take it to the Shelter or otherwise dispose of such dog or animal, so that it may not become a menace to the public.

12. The owner of a dog or animal determined to be a vicious dog or animal may be prohibited by the Town from owning, possessing, controlling, or having custody of any dog or animal for a period of up to three years, when it is found, after proceedings conducted under this Title and/or Article 2 (commencing with Section 31621), that ownership or possession of a dog by that person would create a significant threat to the public health, safety, and welfare.

### **Option 3: Annual Fee for Potentially Dangerous, or Vicious, or Public Nuisance Animals**

#### Public Nuisance License Fee

Any owner possessing a dog declared to be a Public Nuisance, as defined in State Law, Title 15 or by another jurisdiction shall pay an annual Public Nuisance License Fee in addition to the regular dog license fee as specified in the Town of Apple Valley Fee Schedule.

#### Potentially Dangerous or Vicious Dog License Fee

All potentially dangerous dogs shall be properly licensed and vaccinated. The licensing authority shall include the potentially dangerous designation in the registration records of the dog, either the owner or keeper of the dog has agreed to the designation or the court or hearing entity has determined the designation applies to the dog. Any owner possessing a dog declared to be Potentially Dangerous or Vicious, as defined in State Law, Title 15 or by another jurisdiction shall pay an annual Potentially Dangerous or Vicious Dog License Fee in addition to the regular dog license fee as specified in the Town of Apple Valley Fee Schedule. Authority to charge a higher license fee is permitted in Food and Agricultural Code Section 31641 to provide for the increased cost of maintaining the records of the dog.

#### Penalty Fee

Any person who obtains a license not in conformity with any of the provisions of this Chapter shall pay a penalty fee as specified in the Town of Apple Valley Fee Schedule in addition to the regular license fee. Paying a penalty fee does not reduce unpaid license fees due in previous years

#### Prohibiting ownership for individuals identified as having a Vicious dog

The owner of a dog or animal determined to be a vicious dog or animal may be prohibited by the Town from owning, possessing, controlling, or having custody of any dog or animal for a period of up to three years, when it is found, after proceedings conducted under this Title and/or Article 2 (commencing with Section 31621), that ownership or possession of a dog by that person would create a significant threat to the public health, safety, and welfare.