What About Pit Bulls

Don W. Ownby
Municipal Technical Advisory Service

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MUNICIPAL LAW REPORT
No. 6

WHAT ABOUT PIT BULLS?

by Don W. Ownby

The University of Tennessee
MUNICIPAL TECHNICAL ADVISORY SERVICE

in cooperation with The Tennessee Municipal League
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This report is designed to help municipalities identify what their legislative response should be to the considerable media hype about pit bulldogs. Samples of publications, ordinances, and court opinions are included in appendices.

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Published February 1988 by the Municipal Technical Advisory Service, Knoxville, Tennessee; UT authorization no. E14-1056-00-009-88.

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Dear Municipal Official:

It is a pleasure to present to you this Municipal Law Report No. 6, What About Pit Bulls?, as prepared by The University of Tennessee's Municipal Technical Advisory Service (MTAS).

This Municipal Law Report has been prepared to help municipalities understand their options for legislative response to recent media hype concerning pit bulldogs. Any municipality contemplating legislation with respect to vicious dogs generally, or pit bulls in particular, will find this report helpful.

Special recognition is given to Mr. Don W. Ownby, MTAS Municipal Legal Consultant, who has prepared this Municipal Law Report. His research and efforts in preparing this report are appreciated.

Copies of this and other MTAS Municipal Law Reports are available on a complimentary basis to officials of all Tennessee municipalities and on a limited basis to state and federal government offices. Others wishing to obtain copies may do so on a pre-paid basis. An order form can be obtained by contacting our Knoxville office at (615) 974-5301.

We at MTAS hope you find this Municipal Law Report of assistance to you, and look forward to receiving your comments and suggestions.

Sincerely,

D. E. Overman
Executive Director

CLO: dkl
WHAT ABOUT PIT BULLS?

There has been considerable media hype recently about pit bulls. In its July 14, 1986, issue, Newsweek describes the pit bull as, "a dog bred for both viciousness and courage, and a member of a fast-expanding pack nationwide." The article, "The Macho Dog to Have," reports that:

"By some accounts the pit bull population of the United States is now as high as 200,000. And horror stories abound: a pit in Texas killed a six-year-old boy last January; one in Seattle killed two children while another ate its owner; a fourth dog in Cleveland took an ear off an 11-year-old."


"The new canine terror is the American pit bull, a dog with a squat, muscular body and thick, steel-trap jaws that is descended from the fighting bulldogs of 19th century England. In 2-1/2 years it has been responsible for 16 deaths across the country, six of them in the past year, leading many municipalities to pass laws to restrict ownership. It is estimated that there are now 500,000 unregistered, often poorly bred pit bull terriers in the U.S. So fearsome is the dog's reputation that it has become imbued with much the same malevolent aura as the beast (the vicious hound of the Baskervilles that burst upon Sherlock Holmes out of the fog) in Arthur Conan Doyle's story. That is exactly the effect sought by some owners, among them dog-fighting enthusiasts, members of street gangs and drug pushers, many of whom use revolting and painful techniques to bring the animals to the verge of bloodlust."

The Time article goes on to say:

"Ferocious pit bulls can be seen any day with their drug-dealer owners on the corner of Ninth and Butler streets in North Philadelphia. The dogs, with names like Murder, Hitler and Scarface wear metal-studded collars concealing crack and cocaine and the day's proceeds. They are equally visible on Chicago's West and South sides, where teenage boys have taken to brandishing their fierce pit bulls just as they would a switchblade or a gun. 'It's a macho thing, like carrying a weapon', says Jane Alvaro of the Anti-Cruelty Society."

The Newsweek article states that pit bulls range in weight from 40 to 70 pounds and a champion "has jaws that clamp down with 1,500 pounds of pressure--twice the bite of a German Shepherd." The Time article says a pit bull's jaws "can exert as much force as 1,800 pounds per square inch." An article in The National Law Journal, November 10, 1986, states that pit bulls vary in size from 40 to 140 pounds.
Despite the dogs' bloody reputation, some owners insist that pit bulls have a steady temperament, and make excellent pets and companions. The point out that a pit bull played in the Little Rascals in the "Our Gang" films of thirty years ago. Also, R.C.A. Victor's dog listening to "His Master's Voice" was a pit bull, as was Buster Brown's pal, Tiger.

What should the legislative response of a city be to all this media hype? The Humane Society of the United States (HSUS) suggests that the appropriate response is to try to enjoin different communities will have different types of problems. One city may have a problem with large numbers of dogs running at large. Another community may have a problem with guard dogs or dogs trained for fighting. Therefore, HSUS has not produced a model ordinance, but rather has published a 15-page publication entitled "Guidelines for Regulating Dangerous or Vicious Dogs," (Revised June 1987). It suggests that each city should carefully assess its problems and the reasons why existing laws and/or ordinances have not been effective. Appropriate action, in accordance with the recommended guidelines, can then be taken to correct the problems. Sometimes all that is necessary is more vigorous enforcement of existing regulations. The HSUS points out that most laws and ordinances limit dog owners' liability for their dogs' actions to situations in which they have knowledge of the animal's vicious propensity. Although generally intended to mean any knowledge that the animal is likely to commit an injury, this has often been interpreted to mean that the owner must be aware of some prior bite incident. This has popularly been referred to as a free bite or one bite rule. Some ordinances allow two or three free bites. The existence of a prior attack is often seen as the major indicator of an animal's viciousness. However, this approach has some problems. The first bite can also be the last for the victim, when a dog biting with 1500 to 1800 pounds per square inch of pressure hangs on until his victim is dead.

The HSUS recommends guidelines to help communities identify and document potentially dangerous animals without waiting for another animal or person to be injured. It points out that, in reality, most bite instances have been preceded by circumstances which should have given warning that a potentially dangerous situation existed. Most serious incidents are generally reported by a history of close calls. Thus, an ordinance should typically provide for reporting of indications that dogs are dangerous. These reports likely would be by neighbors, postal workers, newspaper carriers, etc. Such reports should be sworn to and investigated. If the investigation confirms the report, the dog should be recorded as being dangerous and the owner notified of his right to a hearing to dispute the finding. Of course, good records should be kept.

An Everett, Washington, ordinance regulates dogs with a known propensity to be dangerous, as well as known pit bull terriers. The animal control officer has a form for putting an owner on notice that his dog comes within the terms of the ordinance. Another common problem with many existing vicious dog laws and ordinances is that the animal suffers the consequences of its owner's irresponsibility. The animal can face destruction or lengthy impoundment while the owner may receive little or no punishment. This may point up the need for state legislation on dangerous dogs, because in Tennessee, cities are limited to a maximum fine of $50 for violations of their ordinances.

Assuming a city, after assessing its situation, concludes that it needs new legislation to deal with dangerous or vicious dogs, should it draft breed-specific or breed-neutral laws? The city concludes that the defense of breed-specific laws may be more costly to a municipality in both time and money than a general, comprehensive dangerous dog law drafted in accordance with the guidelines in its publication.

One problem with breed-specific regulations is that apparently the bad breeds come and go. Thirty years ago, when the pit bull apparently had a good image, the German Shepherd and the Doberman Pinscher were the bad dogs. Now, so-called vicious dogs are trained to be dangerous and vicious while so-called bad dogs are trained to be gentle and docile.

Another problem with breed specific regulations as applied to pit bulls is that pit bulls go by many names: pit bulls, pit bull dogs, bull dogs, pit bull terriers, etc. Most of them are not registered with any kennel club, and those that are registered are not registered as pit bulls because neither of the two major dog clubs in this country recognize such a breed. The American Kennel Club (AKC) registers three breeds of dogs that are mixtures of bull dogs and terriers: the American Staffordshire Terrier, the Staffordshire Bull Terrier, and the Bull Terrier. The United Kennel Club (UKC) registers the American Pit Bull Terrier. Of course, many of the pit bulls referred to in the media hype are probably a mixed breed. Thus, there is a problem in proving the breed of an offending dog. Attorney Marvin R. Rainey, who successfully defended a Shawnee, Kansas, ordinance prohibiting the keeping of "pit bulls" within the city, spoke at the recent National Institute of Municipal Law Officers' (NIMLO) annual conference in Salt Lake City. According to Mr. Rainey, the "breed of an unregistered dog can only be determined by having someone look at the dog and offer an opinion as to what particular breed." Judging from the descriptions of pit bulls given in the Newsweek and the National Law Journal articles referred to above, there apparently is room for disagreement as to what a pit bull is. Presumably, an effective witness would be qualified, by training or experience, to recognize various breeds of dogs.

Tennessee Town and City, the official publication of the Tennessee Municipal League, reports in its, October 26, 1987, issue that no city in Tennessee has adopted an ordinance specifically singling out and dealing with pit bulls. An article points out that Memphis, Nashville, and Johnson City are studying the issue. Knoxvillle may also be looking at the problem because Mary Pat, wife of 1987-mayoral candidate Randy Tyree, was recently bitten by a pit bull while campaigning for her husband. Nashville reportedly recorded 750 dog bites last year, 50 of which were from pit bulls and 117 from German Shepherds.

Although apparently no Tennessee city has adopted an ordinance dealing specifically with pit bulls, a number of cities in other states have. Some of them have been successfully challenged in the lower courts in the Sand Lake City, Florida, while others have been upheld. At this time there has not been an appellate court decision reported on any of the breed-specific ordinances.

One of the first and most highly publicized ordinances to be upheld was that dealing specifically with pit bulls was the Shawnee, Kansas, ordinance referred to above. According to Mr. Rainey, the City of Shawnee, in May, 1985, passed an ordinance absolutely prohibiting the harboring or keeping of pit bulls within the city. Passage of the ordinance followed a number of highly publicized attacks on people by pit bull dogs, some of which had resulted in serious injuries. A suit challenging the validity of the ordinance was filed in the District Court of Johnson County, Kansas, which issued a temporary restraining order against
Despite the dogs' bloody reputation, some owners insist that pit bulls have a steady temperament, and make excellent pets and companions. They point out that a pit bull played the role of the Little Rascals in the "Our Gang" films of thirty years ago. Also, R.C.A. Victor's dog listening to "His Master's Voice" was a pit bull, as was Buster Brown's pal, Tiger.

What should the legislative response of a city be to this media hype? The Humane Society of the United States (HSUS) suggests that the appropriate response varies from city to city. Human behavior and different communities will have different types of problems. One city may have a problem with large numbers of dogs running at large. Another community may have a problem with guard dogs or dogs trained for fighting. Therefore, HSUS has not produced a model ordinance, but rather has published a 15-page publication entitled "Guidelines for Regulating Dangerous or Vicious Dogs." (Revised June 1987). It suggests that each city should carefully assess its problems and the reasons why existing laws and/or ordinances have not been effective. Appropriate action, in accordance with the recommended guidelines, can then be taken to correct the problem. Sometimes all that is necessary is more vigorous enforcement of existing regulations.

HSUS points out that most laws and ordinances limit dog owners' liability for their dogs' actions to situations in which they have knowledge of the animal's vicious propensity. Although generally intended to mean any knowledge that the animal is likely to commit an injury, this has often been interpreted to mean that the owner must be aware of some prior bite incident. This has popularly been referred to as a free bite or one bite rule. Some ordinances allow two or three free bites. The existence of a prior attack is often seen as the major indication an animal is vicious. However, this approach has some problems. The first bite can also be the last for the victim, when a dog biting with 1500 to 1800 pounds per square inch of pressure hangs on until his victim is dead.

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Another common problem with many existing vicious dog laws and ordinances is that the animal suffers the consequences of its owner's irresponsibility. The animal can face destruction or lengthy impoundment while the owner may receive little or no punishment. This may point up the need for state legislation on dangerous dogs, because in Tennessee, cities are limited to a maximum fine of $50 for violations of their ordinances.

Assuming a city, after assessing its situation, concludes that it needs new legislation to deal with dangerous or vicious dogs, should it draft breed-specific regulations or deal with dangerous or vicious dog laws generally? HSUS concludes that the defense of breed-specific laws may be more costly to a municipality in both time and money than a general, comprehensive dangerous dog law drafted in accordance with the guidelines in its publication.

One problem with breed-specific regulations is that apparently the bad breeds come and go. Thirty years ago, when the pit bull apparently had a good image in the general public and press, and some so-called good dogs are trained to be dangerous and vicious while so-called bad dogs are trained to be gentle and docile.

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enforcement. Following an evidentiary hearing, the court denied issuance of a temporary injunction. After that decision, the city amended the ordinance to provide for the grandfathering of pit bulls registered in the city at the time the amending ordinance was adopted. The amended ordinance permits the keeping of pit bulls registered in the city on its effective date, subject to a list of strict regulations.

Under the Shawnee ordinance, grandfathered pit bulls must be confined in a locked, secure building, kennel, or pen or be muzzled and on a leash under the control of someone at all times. The owner must carry liability insurance in the sum of $50,000. Also, the dogs cannot be sold to anyone else in the city. Any offspring born to a pit bull must be moved out of the city within six weeks. There are also certain requirements for reporting, signs, photographs, etc.

The League of Kansas Municipalities reports that as of October 15, 1987, 44 Kansas municipalities have partially banned pit bulls while 34 others have completely banned them.

Chester, Pennsylvania, in February of 1986, adopted an ordinance dealing specifically with pit bulls. The Chester ordinance allows pit bulls, but prohibits their running at large and requires secure confinement or muzzling and leashing. This ordinance also requires a $50 license application fee; an annual license fee of $500 each for one or two dogs; $2,000 for the third, and $3,000 for each dog above three; and a $20,000 cash bond for each dog to insure payment of any damages or injuries which might be caused by the dog.

This ordinance was attacked for, among other reasons, being discriminatory for applying only to pit bulls and not to other breeds of dogs, thus violating the equal protection rights of pit bull owners. However, the United States District Court for the Eastern District of Pennsylvania refused to issue a preliminary injunction against the ordinance. The court said that the plaintiff's chance of prevailing on the merits were too slim to justify a preliminary injunction, weighing the harm to be suffered by the plaintiffs from complying with the ordinance against the risk of harm to the citizens of the town if the injunction were granted. Starkey v. Chester TP., 628 F. Supp. 196 (E.D. Pa. 1986). The court stated: "In this sphere of social regulation, I properly defer to a legislative judgment of necessity and reasonableness."

Necessity and reasonableness should be the basis for whatever ordinances a city enacts. Thus, as HSUS suggests in its "Guidelines for Regulating Dangerous or Vicious Dogs," the first step a city council or board of mayor and aldermen should take in evaluating its dog ordinance is to gather information relative to its local situation. The city governing body should solicit input from the police, local humane societies, animal control agencies, veterinarians, kennel clubs, dog owners, and the general public. Information gathered should provide estimates as to the number and breeds of dogs in the community, which of these dogs have been involved in attacks on other animals and people, how serious the attacks have been, etc. Then, when the local problems and needs have been identified, if existing ordinances and regulations are not adequate they should be amended or replaced as appropriate. Whether a general dangerous dog ordinance or a breed-specific pit bull ordinance is needed will depend on the facts developed in each city.
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3. Everett, Washington, ordinance regulating dogs known to be dangerous, with form which city uses to put owner on notice that his dog is considered dangerous. (See Appendix C).
4. Chester, Pennsylvania, ordinance regulating pit bulls (Feb. 6, 1986). (See Appendix D).
8. First draft of proposed model ordinance being drafted by NIMLO to regulate vicious dogs and the NIMLO cover letter dated Nov. 5, 1987. (See Appendix H).

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APPENDIX A

GUIDELINES FOR REGULATING DANGEROUS OR VICIOUS DOGS
GUIDELINES FOR REGULATING DANGEROUS OR VICIOUS DOGS

The Humane Society of the United States
2100 L St. N.W., Washington, DC 20037
GUIDELINES FOR REGULATING VICIOUS OR DANGEROUS DOGS

Introduction

Many communities around the country are reassessing their laws relating to vicious or dangerous dogs. In some instances this has been the result of serious dog bite incidents that have focused attention on the inadequacies of existing regulations. In other cases legislators have attempted to address the problem before such an incident takes place. The Humane Society of the United States (HSUS) has been asked to assist many communities in improving their vicious dog laws. We have not produced a "model ordinance" relating to this problem since, in reviewing a variety of existing laws, we have concluded that different areas can have very different types of problems. We feel that each community should carefully assess its problems and the reasons why existing laws may have been ineffective and then take appropriate action to correct these shortcomings.

Why are New Laws Necessary?

Most existing laws relating to the control of dangerous animals are derived from centuries-old English Common Law. This approach has failed to recognize the complex role of dogs in our culture and changing social trends that have resulted in widespread keeping of potentially dangerous animals. Also, most laws fail to take into consideration modern knowledge about animal behavior, animal welfare and the epidemiology of animal bites. Finally, many existing laws place the burden of punishment on the offending animal, when in fact it is an irresponsible owner who is usually the direct or indirect cause of dangerous incidents.

What Changes Are Generally Needed?

Most laws limit dog owners' liability for their dogs' actions to situations in which they have knowledge of the animal's "vicious propensity". Although this is generally intended to mean any knowledge that the animal was likely to commit an injury, this has often been interpreted to mean that the owner must be aware of some prior bite incident. This has popularly been referred to as a "free bite" or "one bite" rule. The existence of a prior attack is often seen as the major indicator that an animal is vicious. This approach has several problems:
First, the growing popularity of large and/or aggressive dogs makes it a reality that an animal's first bite is likely to be severe or even fatal. Thus many communities want to be able to identify problem situations before they result in injury.

Second, the concept of "vicious propensity" implies that all dog bites are the result of a behavior problem of the animal. However, we now know that this is only part of the problem. A dog's tendency to bite is a product of at least five factors:

- the dog's genetic predisposition to be aggressive
- the early socialization of the animal to people
- its training for obedience or mistraining for fighting
- the quality of care and supervision provided by the owner
- the behavior of the victim.

All of these factors interact, thus an inherently aggressive dog which is well trained and responsibly supervised may present little or no danger, whereas an affectionate animal with little genetic tendency to bite may become dangerous if poorly socialized, unsupervised, mistreated or provoked.

Good regulations should recognize all of these possibilities and provide for appropriate actions. They should be written with the understanding that any dog may become "dangerous" under the wrong circumstances.

Another common problem with existing vicious dog statutes is that the animal suffers the consequences of its owner's irresponsibility. The animal may face destruction or lengthy impoundment, while the owner may receive little or no punishment. In addition, many irresponsible owners are chronic offenders of animal control laws. Thus ordinances should be constructed that impose serious, escalating fines on owners who are clearly unwilling or unable to adequately control their animals.

Assessing Your Needs

The first step in refining dangerous dog laws is to thoroughly evaluate the special problems and needs of your community. A surprising number of animal control ordinances are introduced without ever consulting with the people most affected by these laws. We suggest that information should be gathered from animal control agencies, local humane societies, veterinarians and/or local veterinary associations, health departments, police, the mayor's office or community boards, kennel or breed clubs, the general dog-owning public, and fish and game or wildlife authorities.

Such information can be obtained from records of previous hearings. If no such hearings have been held, then the public hearing process should be a part of your legislative effort.

Be sure to request information from the appropriate experts as well as from the general public. The information that should be gathered when assessing problems related to dangerous dogs should include:

- Estimates of the number of dogs in the area and, if possible, some idea of the types of dogs owned and the reasons for ownership (companion, guard, working, etc.)
- Estimates of the percentage of dogs that are presently licensed (this ranges from less than 10% to about 80%)
- Reports on the incidence of dog attacks and, if known, a breakdown of the breeds, license status and other information about these incidents
- Reports from law enforcement and/or animal control officers on difficulties they have encountered in enforcing existing ordinances
- Reports on the number of citations, impoundments and quarantines
- Police reports on incidence of animal cruelty, organized dog fighting and "street" dog fighting in the area
- Testimony from public hearings on the nature of common animal problems in the area, including comments on the responsiveness of law enforcement and/or animal control to these complaints
- Reports from agriculture or fish and wildlife authorities on problems related to dog attacks on livestock or wildlife
- Testimony from kennel clubs, breed clubs, veterinarians and local humane organizations on problems related to dog ownership in the community and their perceptions of existing problems
- Reports from postal authorities, utilities and other public services that might be having a problem with dangerous dogs

Reviewing Existing Laws

The evaluation process described above should enable a community to characterize the major dog problems. In some areas the problem may be a large number of animals at large. Other areas may have a high number of "bad" dogs kept for protection. Possession of trained fighting dogs may be a common problem in other regions. Once the problems have been identified more clearly, the community should evaluate existing laws. The following questions should be asked:

- Do current laws address each of the problem areas?
- Are they being enforced?
- Is there a problem with repeat offenders?

If existing laws do not seem to be working, the community should look for the source of the problems. Common shortcomings of animal control laws include:

- Inadequate budget or manpower to enforce the laws
- Inadequate training to effectively deal with problem animals in a humane way
- Low priority given to animal control issues
First, the growing popularity of large and/or aggressive dogs makes it a reality that an animal's first bite is likely to be severe or even fatal. Thus many communities want to be able to identify problem situations before they result in injury.

Second, the concept of "vicious propensity" implies that all dog bites are the result of a behavior problem of the animal. However, we now know that this is only part of the problem. A dog's tendency to bite is a product of at least five factors:

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Another common problem with existing vicious dog statutes is that the animal suffers the consequences of its owner's irresponsibility. The animal may face destruction or lengthy impoundment, while the owner may receive little or no punishment. In addition, many irresponsible owners are chronic offenders of animal control laws. Thus ordinances should be constructed that impose serious, escalating fines on owners who are clearly unwilling or unable to adequately control their animals.

Assessing Your Needs

The first step in refining dangerous dog laws is to thoroughly evaluate the special problems and needs of your community. A surprising number of animal control ordinances are introduced without ever consulting with the people most affected by these laws. We suggest that information should be gathered from animal control agencies, local humane societies, veterinarians and/or local veterinary associations, health departments, police, the mayor's office or community boards, kennel or breed clubs, the general dog-owning public, and fish and game or wildlife authorities.

Such information can be obtained from records of previous hearings. If no such hearings have been held, then the public hearing process should be a part of your legislative effort.

Be sure to request information from the appropriate experts as well as from the general public. The information that should be gathered when assessing problems related to dangerous dogs should include:

- Estimates of the number of dogs in the area and, if possible, some idea of the types of dogs owned and the reasons for ownership (companion, guard, working, etc.)
- Estimates of the percentage of dogs that are presently licensed (this ranges from less than 1% to about 80%)
- Reports on the incidence of dog attacks and, if known, a breakdown of the breeds, license status and other information about these incidents
- Reports from law enforcement and/or animal control officers on difficulties they have encountered in enforcing existing ordinances
- Reports on the number of citations, impoundments and quarantines
- Police reports on incidence of animal cruelty, organized dog fighting and "street" dog fighting in the area
- Testimony from public hearings on the nature of common animal problems in the area, including comments on the responsiveness of law enforcement and/or animal control to these complaints
- Reports from agriculture or fish and wildlife authorities on problems related to dog attacks on livestock or wildlife
- Testimony from kennel clubs, breed clubs, veterinarians and local humane organizations on public response to dog ownership in the community and their perceptions of existing problems
- Reports from postal authorities, utilities and other public services that might be having a problem with dangerous dogs

Reviewing Existing Laws

The evaluation process described above should enable a community to characterize the major dog problems. In some areas the problem may be a large number of animals at large. Other areas may have a high number of "bad" dogs kept for protection. Possession of trained fighting dogs may be a common problem in other regions. Once the problems have been identified more clearly, the community should evaluate existing laws. The following questions should be asked:

- Do current laws address each of the problem areas?
- Are they being enforced?
- Is there a problem with repeat offenders?

If existing laws do not seem to be working, the community should look for the source of the problems. Common shortcomings of animal control laws include:

- Inadequate budget or manpower to enforce the laws
- Inadequate training to effectively deal with problem animals in a humane way
- Low priority given to animal control issues

Appendix A
- Poor community education about existing animal laws and the importance of compliance with these laws
- Community opposition to some provision(s) of existing laws
- Lack of judicial support in upholding effective penalties

Designing or Modifying a Basic Dangerous Dog Law

Once you have identified the problems posed by dangerous dogs and the shortcomings of existing codes, it may be necessary to create new ordinances or rewrite existing ones. A workable dangerous dog law should address the problem in the following way:

1. Define what is meant by a "vicious" or "dangerous" dog
2. Establish the procedures by which a dog comes to be considered vicious or dangerous
3. Establish the actions that may be taken if an owner contests the designation of his or her dog as dangerous
4. Establish the actions that must be taken by the owner of a dog considered to be dangerous
5. Describe the penalties that will be assessed if the dog owner does not comply with the above requirements

Defining a "Vicious" or "Dangerous" Dog

As we noted above, one of the most common problems with existing laws is that they do not identify a potentially dangerous animal until after someone has been injured, rather than attempting to prevent injuries. In reality, most bite instances have been preceded by circumstances that should have given warning that a potentially dangerous situation existed. In some cases there is no question that a problem exists. For example, the traditional criterion of a prior unprovoked bite is sufficient for considering an animal dangerous. Other circumstances might be subject to dispute. For example, witnesses may disagree on whether or not a particular incident might have been provoked. For this reason, some judgements should be made following a hearing.

Effective dangerous dog ordinances require a good reporting and recording system for keeping track of injuries caused by animals. If your laws do not already provide for mandatory reporting of dog bites to the health department, animal control or some other agency, then such a provision should be instituted. The revision of dangerous dog laws also provides a good opportunity to update licensing and rabies vaccination regulations.

The procedures outlined below should enable a community to identify animals and their owners who are causing problems, while still protecting the rights of responsible dog owners.

Indications of a Dangerous Animal

The following characteristics should automatically characterize an animal as dangerous. That is, no hearing should be required. However, a provision must be included that would enable an owner to request a hearing if he or she disagrees with the facts used to designate the animal as dangerous.

"Dangerous Dog" means:
(1) Any dog which, according to the records of the appropriate authority, has inflicted severe injury on a human being without provocation on public or private property or
(2) Any dog which, according to the records of the appropriate authority, has killed a domestic animal without provocation while off the owner's property or
(3) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting

[Optional]
(4) Any dog not owned by a governmental or law enforcement unit used primarily to guard public or private property

Note that in the above definitions, one prior serious bite is considered sufficient to define a dog as dangerous. Several existing laws allow a dog two or even three prior bites. We feel that this is inconsistent with basic principles of responsible pet ownership. The owner of any dog that has caused injury should be prepared to take immediate action to prevent further problems. If the circumstances surrounding this single instance are in dispute, then the owner has the option of a hearing and possible appeal, as described below.

Indications of a Dangerous Animal Following a Hearing

Many circumstances could be used to identify a potentially dangerous animal. A hearing could then be held to make a final determination. The format of the hearing, the composition of the panel, and the appeal process will vary depending on whether this law is enacted at the city, county or state level. One possible format for this provision follows:

"A Determination Hearing shall be conducted by <insert appropriate authority> whenever there is cause to believe that a dog may be a "dangerous animal" as defined in <insert section>. Said hearing shall be conducted within five (5) days of serving notice to the owner by certified letter."

"Pending the outcome of such a hearing, the dog must be securely confined in a humane manner either on the premises of the owner or with a licensed veterinarian."
- Poor community education about existing animal laws and the importance of compliance with these laws
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Appendix A

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"Pending the outcome of such a hearing, the dog must be securely confined in a humane manner either on the premises of the owner or with a licensed veterinarian."
The following criteria are among those that could be used to define an animal as "potentially dangerous" and thus prompt a hearing according to the procedures described above:

This provision would cover animals that have threatened people, but which have not caused injuries. Our analysis of dog bite cases suggests that many serious incidents are preceded by a history of "close calls". This is a "catch all" category that could be used to institute a hearing if neighbors, postal workers, utility workers or others feel that there is cause. Since pets are often the focus of neighborhood disputes, this provision should be made formal enough to avoid "nuisance" complaints against a pet owner, but at the same time it should provide citizens with legitimate complaints an opportunity to initiate appropriate action against an irresponsible owner of an animal that is likely to cause harm.

One approach to achieving this balance is to require an investigation if a sworn complaint is received from one or more residents of the community. This could be worded as follows:

Upon receipt of an "Affidavit of Complaint" signed by one or more residents of <community> made under oath before an individual authorized by law to take sworn statements, the appropriate authority shall investigate the complaint to determine if in fact the animal is dangerous.

Exemptions for Animals that are Provoked

A sound dangerous dog ordinance should recognize that some bite situations are not precipitated by the dangerous nature of the animal but are brought on by the actions of the victim. Some allowance should be made to deal with situations in which the attack was provoked. Such provisions could be worded as follows:

No dog may be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog, or was trespassing, tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the dog or was committing or attempting to commit a crime.

Other Exemptions

Existing ordinances often make specific exemptions for dogs used in law enforcement. Some additional exemptions may need to be spelled out relating to dogs used in hunting, since these might be used to chase wild animals.

Breed-Specific Definitions of "Dangerous"

One of the most controversial subjects in animal control legislation is the use of breed descriptions to automatically characterize a dog as vicious or dangerous or in some other way restrict or regulate ownership of the breed. Thus far, such breed-specific regulations have been specifically aimed at "pit bulls", although breed clubs and other groups have expressed fears that such restrictions might be extended to other breeds in the future.
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One approach to achieving this balance is to require an investigation if a sworn complaint is received from one or more residents of the community. This could be worded as follows:

Upon receipt of an "Affidavit of Complaint" signed by one or more residents of <community> made under oath before a public official, stating that a dog is acting in a menacing manner or has caused injury, the appropriate authority shall investigate the complaint to determine if in fact the animal is dangerous.

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There are many problems associated with breed-specific ordinances. (See "Vicious Dogs", Humane Society News, Winter 1986). Briefly, such laws fail to address the fact that most problems with dangerous dogs are due to irresponsible ownership, which can be compounded by the popularity of owning aggressive animals. In addition, many local humane organizations have reported that media attention given to controversies over breed-specific legislation has actually increased the demand for pit-bulls.

Most breed-specific laws have faced court challenges from local or national breed organizations. These laws have generally been challenged on the basis of overinclusiveness, underinclusiveness, vagueness and violation of fourteenth amendment protection.

Although several pit-bull specific laws have been struck down, others have been unopposed or have survived court challenges in areas where unique circumstances seem to warrant them.

- An ordinance banning American Pit Bull Terriers in Tijeras, New Mexico was upheld at the trial level in March of 1986.
- A 1985 Shawnee, Kansas ordinance requiring pit bull owners to confine their animals and carry liability insurance and banning any new acquisitions of pit bulls was upheld, citing "dangerous conditions in the city."
- In May of 1986 Cincinnati, Ohio enacted an ordinance prohibiting the sale or purchase of pit bulls within the city limits which was amended to provide for confinement of these animals. An attempt to receive an injunction to prohibit enforcement of the law was thrown out on procedural grounds. Recently new court actions have been filed.
- Since April of 1984 Cambridge, Massachusetts has required the muzzling of pit bulls when off the owner's property. That law has not been challenged.
- In 1986 Chester, Pennsylvania required that owners of pit bulls must purchase special permits at $500 per year per dog for the first three dogs and $3,000 per year for each additional dog. Owners must post a $20,000 bond and confine animals in a secure place. A request for an injunction against enforcement was not granted at the District Court level.

The defense of breed-specific laws may be costly to a municipality in both time and money. The question remains whether such a law is any more effective in protecting the public than a general, comprehensive dangerous dog law such as that outlined here. Several new non-breed-specific laws, on which we have based many of our suggestions, have been effective in controlling problems related to all types of dangerous dogs, including pit bulls.

In the communities where it can be documented that specific breeds (and their owners) create special problems, breed-specific regulations that impose the least possible infringements on responsible owners of the breed seem to have a better chance of receiving public and/or judicial support. In any case, hastily constructed rules that concentrate on only one issue should not be seen as a complete solution to problems posed by dangerous dogs and irresponsible owners.

Actions to be Taken By Owners of Dangerous Dogs

Dogs Involved in Unprovoked Fatal or Severe Attacks

Although there is often an outpouring of public sentiment in support of animals that have inflicted fatal or severe injuries, The HSUS believes that it is usually in the best interest of the public and responsible dog owners that a dog responsible for an unprovoked severe or fatal attack be humanely euthanized following a hearing to clarify the circumstances of the incident. The definition of "serious" or "severe" attack may vary. It is suggested that this be based on the extent of injuries as indicated by the type of medical intervention necessary; duration of hospitalization and projected length of recovery of the victim. The 1987 vicious dog law for the state of Washington offers the following definition:

"Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

Dogs Involved in Provoked Fatal or Severe Attacks

A dog that has inflicted fatal or severe injuries under circumstances which indicate that the animal was provoked is still a potential hazard. The owner of such an animal should be required to take the actions outlined below for dangerous dogs.

Dogs Defined as Dangerous as a Result of a Hearing or Automatic Definitions Outlined Above

Dogs involved in non-fatal or non-severe bites should be quarantined and/or impounded for observation in accordance with existing rabies control ordinances for the area. This period of quarantine must meet the requirements of applicable rabies control laws, but should not exceed 14 days.

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1. Licensing, Registration and Rabies Inoculation

The ordinance should note that all requirements for keeping any dog must be met by the owner of a "dangerous" dog. The community may wish to add a designation of "dangerous" to the registration records of such an animal, or may elect to require a special registration.

2. Positive Identification of the Animal

It is essential to be able to positively identify any dog that has been designated as dangerous. Presently, the most effective way of permanently and positively identifying dogs is by tattooing. Rhode Island state law words this as follows:

"The owner or keeper shall, at his own expense, have the licensing number assigned to such dog, or other such number as the city or town clerk or other licensing authority shall determine, tattooed upon such vicious dog by a licensed veterinarian or person trained as a tattooist and authorized as such by any state, city or town police department. The dog officer may, in his discretion, designate the particular location of said tattoo."

In addition, the law should specify that the animal wear a conspicuously colored collar that would identify it as a dangerous dog.

3. Notification of Change of Status

It is also essential that the appropriate authorities be informed of any change in the status of a dangerous dog that might affect public health and safety. This provision may be worded as follows:

"The owner or keeper shall notify the <appropriate authority> within twenty-four (24) hours if a dangerous dog is loose, unconfined, has attacked another animal or has attacked a human being or has died or has been sold or given away. If the dog has been sold or given away the owner or keeper shall provide the <authority> with the name, address and telephone number of the new owner, who must comply with the requirements of this ordinance."

4. Proper Confinement of the Dog

Animals that have been declared dangerous should immediately be kept in a humane way that also protects the public. It is not enough to simply attach the dog to a heavy chain. Many severe attacks have been attributed to animals that either were chained, or who broke their restraints. This provision could be worded:

"While on the owners' property, a dangerous dog must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure must have minimum dimensions of five feet by ten feet and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be embedded into the ground no less than two feet. The enclosure must also provide protection from the elements for the dog."

In addition, owners of dogs that have been designated as dangerous should be required to post signs notifying the public of the presence of such an animal:

"The owner or keeper shall display a sign on his or her premises warning that there is a dangerous dog on the property. This sign shall be visible and must state that it was posted from the public highway or thoroughfare. In addition, the owner shall conspicuously display a sign with a symbol warning children of the presence of a dangerous dog."

5. Control and/or Muzzling while Off Owner's Property

A good ordinance must recognize that humane care may require that the animal be taken off the owners' property for exercise, veterinary care or other needs. The law should insure that the dangerous dog will be under close supervision and control at these times. This may be worded as follows:

"A dangerous dog may be off the owner's premises if it is muzzled and restrained by a substantial chain or leash not exceeding six feet in length and under the control of a responsible person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent it from biting any person or animal."

Optional Provisions

Municipalities around the country have added other provisions to their dangerous dog ordinances designed to further reduce the problems caused by irresponsible ownership of aggressive dogs. These provisions may or may not be appropriate for your community and some need not be applied to animals that are considered potentially dangerous, but which have not caused injuries.

6. Spay/Neuter Requirement for Animals Designated "Dangerous"

Although spaying or neutering may not reduce the probability that an animal will act aggressively, such a requirement may help reduce the number of animals with a genetic tendency to bite and will also prevent owners of dangerous dogs from profiting from the sale of offspring of these animals, a major factor in the rapid growth of this problem.
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7. Insurance Requirements or Bond

Many victims of dog attack are unable to recover medical expenses because the dog owner is uninsured or underinsured. Some municipalities require that the owners of dangerous dogs show proof of liability insurance or post bond. The amount specified should be reasonable and obtainable. Suggested wording for such a provision is:

"The owner or keeper of a dangerous dog shall present to the <appropriate authority> proof that the owner or keeper has procured liability insurance in the amount of at least one hundred thousand dollars ($100,000), covering the 12 month period during which licensing is sought. This policy shall contain a provision requiring the <community> to be named as an additional insured for the sole purpose of the <community> to be notified by the insurance company of any cancellation, termination or expiration of the policy."

8. Owner Education/ Community Service

Since many of the problems posed by dangerous dogs are directly related to irresponsible pet ownership, some communities are beginning to require that violators of animal control laws attend mandatory classes on responsible care. These classes are modeled after those required for violators of traffic regulations. Such a provision will depend upon the resources available from animal control agencies and local humane societies.

9. Provisions for Inspection

To be effective, a dangerous dog ordinance should empower the appropriate authorities to make whatever inquiry is deemed necessary to ensure compliance with the provisions. These measures will be more effective if such inspections occur on a regular basis (at least twice a year).

10. Euthanasia Option

If the owner or keeper of a dog that has been designated dangerous is unwilling or unable to comply with the above regulations for keeping such an animal then he or she should have the animal humanely euthanized by an animal shelter, animal control agency or licensed veterinarian, after a 14 day holding period. Any dog that has been designated as dangerous under these laws may not be offered for adoption.

11. Banishment of Dangerous Dogs

Some communities have passed ordinances that simply require that the animal be removed from the community's boundaries. Ordinarily this does not address the cause of these problems and only serves to move them into another jurisdiction.
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"The owner or keeper of a dangerous dog shall present to the <appropriate authority> proof that the owner or keeper has procured liability insurance in the amount of at least one hundred thousand dollars ($100,000), covering the 12 month period during which licensing is sought. This policy shall contain a provision requiring the <community> to be named as an additional insured for the sole purpose of the <community> to be notified by the insurance company of any cancellation, termination or expiration of the policy."

8. Owner Education/ Community Service

Since many of the problems posed by dangerous dogs are directly related to irresponsible pet ownership, some communities are beginning to require that violators of animal control laws attend mandatory classes on responsible care. These classes are modeled after those required for violators of traffic regulations. Such a provision will depend upon the resources available from animal control agencies and local humane societies.

9. Provisions for Inspection

To be effective, a dangerous dog ordinance should empower the appropriate authorities to make whatever inquiry is deemed necessary to ensure compliance with the provisions. These measures will be more effective if such inspections occur on a regular basis (at least twice a year).

10. Euthanasia Option

If the owner or keeper of a dog that has been designated dangerous is unwilling or unable to comply with the above regulations for keeping such an animal then he or she should have the animal humanely euthanized by an animal shelter, animal control agency or licensed veterinarian, after a 14 day holding period. Any dog that has been designated as dangerous under these laws may not be offered for adoption.

11. Banishment of Dangerous Dogs

Some communities have passed ordinances that simply require that the animal be removed from the community's boundaries. Ordinances that do not address the cause of these problems and only serve to move them into another jurisdiction.

12. Authorization of Funding for a Licensing Drive

Several communities have used the occasion of the passage of more stringent animal control laws to enact legislation that specifically provides for funding for a campaign to educate the public about the requirements for licensing animals and about the new provisions relating to dangerous dogs.

13. Injuries to Seeing-Eye Dogs or Blind Persons

Some communities have instituted special regulations requiring that the owner of any dog that, while off the owner's property, assaults, bites or otherwise injures a blind person or guide dog, shall be liable to the blind person for double all damages sustained. Such damages are to be recovered in a civil action.

14. Liability of Parents for Damages Caused by Dog Owned by Minor

Recent reports have indicated that a significant number of potentially dangerous dogs are owned by adolescents or other minors. Regulations should stipulate that if the owner or keeper of a dangerous dog is a minor, the parent or guardian of that minor shall be responsible for compliance with the specifications of the ordinance for the care and housing of the animal and shall also be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the dog.

Actions to be Taken Against Owners of Dangerous Dogs

Many existing animal control ordinances consider aggressive dogs to be a trivial problem and apply correspondingly small penalties, yet the many injuries and deaths attributed to such dogs demonstrate the urgency of this issue and the need for more effective penalties.

The HSUS recommends that this issue be best addressed by passing strong state laws, since such laws can specify heavier penalties for offenders. This does not preclude working for local ordinances as well. Local level governments tend to meet more frequently and can respond more quickly to emergency situations. In some cases state legislatures meet only at the beginning of the year, or even every other year. It is never too early to begin to work with your state legislators to draft more effective dangerous dog legislation.

Specific penalties will depend on the level at which vicious dog ordinances are drafted (i.e. city, county, state). Check your local ordinances and state laws to determine how penalties should be structured to conform to applicable criminal codes.
The HSUS strongly recommends that felony level penalties be applied in cases of fatal or severe attacks or non-compliance with requirements for actions to be taken by the owners of animals that have been designated vicious or dangerous. Failure to comply with rules relating to the keeping of dangerous dogs should result in a fine of no less than $500, with a second failure resulting in felony penalties and possible confiscation of the animal(s) in question.

Washington state’s 1987 law provides for some of the strongest penalties for the owners of vicious dogs:

"(1) Any dangerous dog shall be immediately confiscated by an animal control authority if the: (a) Dog is not validly registered...; (b) owner does not secure the liability insurance coverage required...; (c) dog is not maintained in the proper enclosure; (d) dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under the physical restraint of the owner. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021."

"(2) If a dangerous dog of an owner with a prior conviction... attacks or bites a person or another domestic animal, the dog owner is guilty of a class C felony... In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner."

"(3) The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether the dog has previously been declared potentially dangerous or dangerous, shall be guilty of a class C felony... In addition, the dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner."

Appending Animal Fighting Felony Provisions to Laws Dealing with Vicious or Dangerous Dogs

Many of the problems related to dangerous dogs are directly and indirectly linked to the continuing practice of dog fighting. Several states have appended felony level dog fighting or animal fighting laws to legislation aimed at controlling vicious or dangerous dogs. The HSUS endorses this strategy in dealing with this serious issue. A model state animal fighting law is available on request.
The HSUS strongly recommends that felony level penalties be applied in cases of fatal or severe attacks or non-compliance with requirements for actions to be taken by the owners of animals that have been designated vicious or dangerous. Failure to comply with rules relating to the keeping of dangerous dogs should result in a fine of no less than $500, with a second failure resulting in felony penalties and possible confiscation of the animal(s) in question.

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"(1) Any dangerous dog shall be immediately confiscated by an animal control authority if the: (a) Dog is not validly registered...; (b) owner does not secure the liability insurance coverage required...; (c) dog is not maintained in the proper enclosure; (d) dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under the physical restraint of the owner. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021."

"(2) If a dangerous dog of an owner with a prior conviction... attacks or bites a person or another domestic animal, the dog owner is guilty of a class C felony... In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner."

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APPENDIX B

SHAWNEE, KANSAS
ORDINANCE REGULATING PIT BULLS
APPENDIX B
SHAWNEE, KANSAS - ORDINANCE REGULATING PIT BULLS
CITY OF SHAWNEE
ORDINANCE NO. ______


WHEREAS, the Governing Body of the City of Shawnee on the 11th day of May, 1985, passed Ordinance No. 1670 prohibiting the keeping of pit bull dogs within the corporate limits of the City of Shawnee, and

WHEREAS, said ordinance was approved and signed by the Mayor on the 20th day of May, 1985, and

WHEREAS, the Governing Body of the City of Shawnee on the 28th day of May, 1985, passed Ordinance No. 1671 amending Ordinance No. 1670 by definitively describing the use of the term "Pit Bull Dog", and

WHEREAS, Ordinance No. 1671 was approved and signed by the Mayor on the 29th day of May, 1985, and

WHEREAS, Ordinance No. 1670 included certain legislative findings all of which findings are hereby ratified, adopted and confirmed by the Governing Body of the City of Shawnee.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SHAWNEE, KANSAS:

Section 1. Chapter II, Article 2, Section 2-207 of the Code of the City of Shawnee, Kansas is hereby amended. The entire Section 2-207 as amended is hereinafter set forth:

Section 2-207 - Animals: Keeping Prohibited. It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Shawnee, Kansas:

(1) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal (including but not limited to non-human primates, raccoons, skunks, foxes and wild and exotic cats; but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes).

(2) Any animal having poisonous bites.

(3) Any pit bull dog; provided, that pit bull dogs registered with the City on the date of publication of this ordinance may be kept within the City subject to the standards and requirements set forth in Section 2-207(a) of this Article. "Pit Bull dog" is defined to mean:

(a) The bull terrier breed of dog;
(b) Staffordshire bull terrier breed of dog;
(c) The American pit bull terrier breed of dog;
(d) The American Staffordshire terrier breed of dog;
APPENDIX B

SHAWNEE, KANSAS - ORDINANCE REGULATING PIT BULLS

CITY OF SHAWNEE

ORDINANCE NO. _______


WHEREAS, the Governing Body of the City of Shawnee on the 11th day of May, 1985, passed Ordinance No. 1670 prohibiting the keeping of pit bull dogs within the corporate limits of the City of Shawnee, and

WHEREAS, said ordinance was approved and signed by the Mayor on the 20th day of May, 1985, and

WHEREAS, the Governing Body of the City of Shawnee on the 28th day of May, 1985, passed Ordinance No. 1671 amending Ordinance No. 1670 by definitively describing the use of the term "Pit Bull Dog", and

WHEREAS, Ordinance No. 1671 was approved and signed by the Mayor on the 29th day of May, 1985, and

WHEREAS, Ordinance No. 1670 included certain legislative findings all of which findings are hereby ratified, adopted and confirmed by the Governing Body of the City of Shawnee.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SHAWNEE, KANSAS:

Section 1. Chapter II, Article 2, Section 2-207 of the Code of the City of Shawnee, Kansas is hereby amended. The entire Section 2-207 as amended is hereinafter set forth:

Section 2-207 - Animals: Keeping Prohibited. It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Shawnee, Kansas:

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(2) Any animal having poisonous bites.

(3) Any pit bull dog; provided, that pit bull dogs registered with the City on the date of publication of this ordinance may be kept within the City subject to the standards and requirements set forth in Section 2-207(a) of this Article. "Pit Bull dog" is defined to mean:

(a) The bull terrier breed of dog;
(b) Staffordshire bull terrier breed of dog;
(c) The American pit bull terrier breed of dog;
(d) The American Staffordshire terrier breed of dog;
(e) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bull, pit bull dogs or pit bull terrier;

(f) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

Section II. Chapter II, Article 2, of the Code of the City of Shawnee is amended by adding a new Section 2-207(a) titled Keeping of Registered Pit Bulls, which shall read as follows:

Section 2-207(a) - Keeping of Registered Pit Bulls. The provisions of Section 2-207 of this Article are not applicable to owners, keepers or harborers of pit bull dogs registered with the City of Shawnee as of June 5, 1985, the effective date of this article. The keeping of such dogs, however, shall be subject to the following standards:

(1) Leash and Muzzle. No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(2) Confinement. All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embeded in the ground no less than two (2) feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) Confinement Indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(4) Signs. All owners, keepers or harborers of registered pit bull dogs within the City shall within ten (10) days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(5) Insurance. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the effective date of this ordinance provide proof to the Shawnee City Clerk of public liability insurance in a single incident amount of $50,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the Shawnee City Clerk.

(6) Identification Photographs. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the effective date of this ordinance provide to the City Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(7) Reporting Requirements. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the incident, report the following information in writing to the Shawnee City Clerk as required hereinafter:

(a) The removal from the City or death of a registered pit bull dog;
(b) The birth of offspring of a registered pit bull dog;
(c) The new address of a registered pit bull dog owner should the owner move within the corporate city limits.

(8) Sale or Transfer of Ownership Prohibited. Sale - no person shall sell, barter or in any other way dispose of a pit bull dog registered with the City to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided that the registered owner of a pit bull dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the City.

(9) Animals Born of Registered Dogs. All off-spring born of pit bull dogs registered with the City must be removed from the City within six (6) week of the birth of such animal.

(10) Irrebuttable Presumptions. There shall be an irrebuttable presumption that any dog registered with the City as a pit bull dog or any of those breeds prohibited by Section 2-207 of this Article is in fact a dog subject to the requirements of this section.
Section 11. Chapter 11, Article 2, of the Code of the City of Shawnee is amended by adding a new Section 2-207(a) titled Keeping of Registered Pit Bulls, which shall read as follows:

Section 2-207(a) — Keeping of Registered Pit Bulls. The provisions of Section 2-207 of this Article are not applicable to owners, keepers or harborers of pit bull dogs registered with the City of Shawnee as of June 5, 1985, the effective date of this Article. The keeping of such dogs, however, shall be subject to the following standards:

(1) Leash and Muzzle. No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless such dog is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal’s kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(2) Confinement. All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) Confinement Indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(4) Signs. All owners, keepers or harborers of registered pit bull dogs within the City shall within ten (10) days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words “Beware of Dog”. In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(5) Insurance. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the effective date of this ordinance provide proof to the Shawnee City Clerk of public liability insurance in a single incident amount of $50,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the Shawnee City Clerk.

(6) Identification Photographs. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the effective date of this ordinance provide to the City Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(7) Reporting Requirements. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the incident, report the following information in writing to the Shawnee City Clerk as required hereinafter:

(a) The removal from the City or death of a registered pit bull dog;
(b) The birth of offspring of a registered pit bull dog;
(c) The new address of a registered pit bull dog owner should the owner move within the corporate city limits.

(8) Sale or Transfer of Ownership Prohibited. Sale — no person shall sell, barter or in any other way dispose of a pit bull dog registered with the City to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided that the registered owner of a pit bull dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the City.

(9) Animals Born of Registered Dogs. All offspring born of pit bull dogs registered with the City must be removed from the City within six (6) week of the birth of such animal.

(10) Irrebuttable Presumptions. There shall be an irrebuttable presumption that any dog registered with the City as a pit bull dog or any of those breeds prohibited by Section 2-207 of this article is in fact a dog subject to the requirements of this section.
(11) Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a pit bull dog registered with the City of Shawnee to fail to comply with the requirements and conditions set forth in this ordinance. Any dog found to be the subject of a violation of this ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City.

(12) Violations and Penalties. Any person violating or permitting the violation of any provision of this ordinance shall upon conviction in Municipal Court be fined a sum not less than $200.00 and not more than $1,000.00. In addition to the fine imposed the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed thirty (30) days. In addition, the court shall order the registration of the subject pit bull revoked and the dog removed from the City. Should the defendant refuse to remove the dog from the City the municipal court judge shall find the defendant in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance.

(13) Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this ordinance.

Section III. Chapter II, Article 2, Section 2-207 of the Code of the City of Shawnee, Ordinance No. 1670 except for the legislative findings set forth in that ordinance, and Ordinance No. 1671 now enforce and effect are hereby repealed.

Section IV. This ordinance shall take effect and be in full force from and after its publication in the official city newspaper.

PASSED by the City Council this ______ day of _______, 1985.

APPROVED AND SIGNED by the Mayor this ______ day of _______, 1985.

THOMAS A. SOETAERT, Mayor

ATTEST:

LEE MEYER, City Clerk

APPROVED AS TO FORM:

MARVIN E. RAINEY, City Attorney
(11) Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a pit bull dog registered with the City of Shawnee to fail to comply with the requirements and conditions set forth in this ordinance. Any dog found to be the subject of a violation of this ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City.

(12) Violations and Penalties. Any person violating or permitting the violation of any provision of this ordinance shall upon conviction in Municipal Court be fined a sum not less than $200.00 and not more than $1,000.00 in addition to the fine imposed. The court may sentence the defendant to imprisonment in the county jail for a period not to exceed thirty (30) days. In addition, the court shall order the registration of the subject pit bull revoked and the dog removed from the City. Should the defendant refuse to remove the dog from the City the municipal court judge shall find the defendant in contempt and order the immediate confiscation and impoundment of the animal. Each day the violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance.

(13) Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this ordinance.

Section III. Chapter 11, Article 2, Section 2-207 of the Code of the City of Shawnee, Ordinance No. 1670 except for the legislation findings set forth in that ordinance, and Ordinance No. 1671 now enforce and are hereby repealed.

Section IV. This ordinance shall take effect and be in full force from and after its publication in the official city newspaper.

PASSED by the City Council this _____ day of _______, 1985.

APPROVED AND SIGNED by the Mayor this _____ day of _______, 1985.

THOMAS A. SOETAERT, Mayor

ATTEST:

LEE MEYER, City Clerk

APPROVED AS TO FORM:

MARVIN E. RAINEY, City Attorney
EVERETT, WASHINGTON - ORDINANCE REGULATING DOGS KNOWN TO BE DANGEROUS, WITH FORM WHICH CITY USES TO PUT OWNER ON NOTICE THAT HIS DOG IS CONSIDERED DANGEROUS

EVERETT, WASHINGTON
ORDINANCE NO._____

IT IS HEREBY ORDAINED:

Section 1: There shall be added a new chapter to the Municipal code, to be entitled "Dangerous Dogs."

Section 2: Definitions. As used in this chapter:

A. "Owner" means any person or legal entity having a possessory property right in a dog or who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by them.

B. "Dangerous dog" means:

1. Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; or

2. Any dog which attacks a human being or other domestic animal without provocation; or

3. Any dog known by the owner to be a pit bull terrier, which shall herein be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier.

C. A dangerous dog is "unconfined" if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

Section 3: Unconfined Dangerous Dog On Premises Of Owner. The owner of a dangerous dog shall not suffer or permit such dog to go unconfined.

Section 4: Dangerous Dog Off Premises. The owner of a dangerous dog shall not suffer or permit such dog to go beyond the premises of such person unless such dog is securely leased and muzzled or otherwise securely restrained and muzzled.
APPENDIX C

EVERETT, WASHINGTON — ORDINANCE REGULATING DOGS KNOWN TO BE DANGEROUS, WITH FORM WHICH CITY USES TO PUT OWNER ON NOTICE THAT HIS DOG IS CONSIDERED DANGEROUS

EVERETT, WASHINGTON
ORDINANCE NO. ________________

IT IS HEREBY ORDAINED:

Section 1: There shall be added a new chapter to the Municipal code, to be entitled “Dangerous Dogs.”

Section 2: Definitions. As used in this chapter:

A. "Owner" means any person or legal entity having a possessory property right in a dog or who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by them.

B. "Dangerous dog" means:

1. Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; or

2. Any dog which attacks a human being or other domestic animal without provocation; or

3. Any dog known by the owner to be a pit bull terrier, which shall herein be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier as to the identifiable as partially of the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier.

C. A dangerous dog is "unconfined" if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

Section 3: Unconfined Dangerous Dog On Premises Of Owner. The owner of a dangerous dog shall not suffer or permit such dog to go unconfined.

Section 4: Dangerous Dog Off Premises. The owner of a dangerous dog shall not suffer or permit such dog to go beyond the premises of such person unless such dog is securely leashed and muzzled or otherwise securely restrained and muzzled.
Section 5: Applicability To Adult Dogs Only. The provisions of this chapter shall apply to adult dogs only, which shall mean any dog over the age of six (6) months.

Section 6: Penalties. Any person, firm or corporation violating the provisions of Section 3 or Section 4 of this ordinance shall be guilty of a gross misdemeanor and may be punished by a fine of not more than five thousand dollars ($5,000) or imprisonment of not more than one year in jail, or by both such fine and imprisonment.

Section 7: Severability. If any one or more of the sections or provisions provided in this ordinance shall be declared by any court of competent jurisdiction to be contrary to law, then such sections or provisions shall be null and void and shall be deemed separable from the remaining sections or provisions in this ordinance and shall in no way affect the validity of the remaining sections or provisions in this ordinance.

Section 8: General Duty. Nothing in this ordinance is intended to create a cause of action or claim against the city or its officials or employees running to specific individuals. Any duty created herein is intended to be a general duty running in favor of the public citizenry.

Appendix C

DANGEROUS DOG DECLARATION

City of Everett Ordinance No. 1228-86 declares that a dangerous dog means:

1. Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; or
2. Any dog which attacks a human being or other domestic animal without provocation.
3. Any dog known by the owner to be a pit bull terrier.

YOUR DOG ONE NAMED IS HEREBY DECLARED TO BE A DANGEROUS DOG, FOR THE FOLLOWING REASON:

It is unlawful for the owner of a dangerous dog to allow that dog to go unconfined. A dangerous dog is "unconfined" if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

It is unlawful for the owner of a dangerous dog to allow that dog to go beyond the premises of such person unless that dog is securely leashed and muzzled or otherwise securely restrained and muzzled.

Violation of any of the above provisions is a gross misdemeanor, punishable by one year in jail and/or a $5,000 fine.

Copy received this ___ day of __, 19 .

ANIMAL CONTROL OFFICER
Section 5: Applicability To Adult Dogs Only. The provisions of this chapter shall apply to adult dogs only, which shall mean any dog over the age of six (6) months.

Section 6: Penalties. Any person, firm or corporation violating the provisions of Section 3 or Section 4 of this ordinance shall be guilty of a gross misdemeanor and may be punished by a fine of not more than five thousand dollars ($5,000) or imprisonment of not more than one year in jail, or by both such fine and imprisonment.

Section 7: Severability. If any one or more of the sections or provisions provided in this ordinance shall be declared by any court of competent jurisdiction to be contrary to law, then such sections or provisions shall be null and void and shall be deemed separable from the remaining sections or provisions in this ordinance and shall in no way affect the validity of the remaining sections or provisions in this ordinance.

Section 8: General Duty. Nothing in this ordinance is intended to create a cause of action or claim against the city or its officials or employees running to specific individuals. Any duty created herein is intended to be a general duty running in favor of the public citizenry.

Appendix C

DANGEROUS DOG DECLARATION

City of Everett Ordinance No. 1228-86 declares that a dangerous dog means:

1. Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; or

2. Any dog which attacks a human being or other domestic animal without provocation.

3. Any dog known by the owner to be a pit bull terrier.

YOUR DOG, ONE NASCAR IS HEREBY DECLARED TO BE A DANGEROUS DOG, FOR THE FOLLOWING REASON:

It is unlawful for the owner of a dangerous dog to allow that dog to go unconfined. A dangerous dog is "unconfined" if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

It is unlawful for the owner of a dangerous dog to allow that dog to go beyond the premises of such person unless that dog is securely leashed and muzzled or otherwise securely restrained and muzzled.

Violation of any of the above provisions is a gross misdemeanor, punishable by one year in jail and/or a $5,000 fine.

ANIMAL CONTROL OFFICER

Copy received this day of 19
APPENDIX D
CHESTER, PENNSYLVANIA
ORDINANCE REGULATING PIT BULLS
APPENDIX D

CHESTER, PENNSYLVANIA
ORDINANCE REGULATING PIT BULLS
APPENDIX D

CHESTER, PENNSYLVANIA - ORDINANCE REGULATING PIT BULLS

TOWNSHIP OF CHESTER

ORDINANCE NO. 1 - 1986

AN ORDINANCE OF THE TOWNSHIP OF CHESTER, DELAWARE COUNTY, PENNSYLVANIA, AMENDING CHAPTER 620 OF THE CODIFIED ORDINANCES OF THE TOWNSHIP OF CHESTER ENTITLED "ANIMALS" BY REGULATING AND DEFINING "PIT BULLS", BY PROVIDING FOR REGULATIONS GOVERNING AND FEES CHARGED FOR THE LICENSING OF PIT BULLS; BY PROVIDING FOR THE REGULATION OF THE CONFINEMENT AND THE DESTRUCTION OF PIT BULLS; BY PROVIDING FOR PENALTY FOR THE VIOLATION THEREOF; AND REPEALING ALL ORDINANCES OF PARTS OF ORDINANCES INCONSISTENT THEREWITH.

THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF CHESTER DOES ORDAIN:

SECTION ONE. That Section 620.01 entitled "Definitions" of Chapter 620 entitled "Animals" of the Codified Ordinances of the Township of Chester shall be amended by adding the following definitions:

"(e) 'Pit Bulls' as defined in this Ordinance shall include any of the following breeds of dogs: Straffordshire, Terrier, American Pit Bull, Pit Bull, any dog that fits into the above American Kennel definitions, dogs displaying the majority of traits of any of the above breeds, and any dog bred for fighting."

SECTION TWO. That the following new Subsections shall be added to Chapter 620 entitled "Animals" of the Codified Ordinances of the Township of Chester:

"(22) Pit Bulls are considered dangerous dogs and potentially hazardous to the community. Pit Bulls shall at no time or under any circumstances be permitted to run loose in or upon the Township of Chester. Any Pit Bull running loose in or upon the Township of Chester shall be subject to restraint, confinement, impoundment, and/or destruction by any police officer or other authorized person of the Township. It shall be the duty of any Township Police Officer or other authorized personnel of the Township to take whatever action is necessary under the circumstances to properly secure and restrain any loose Pit Bull, including the immediate destruction of the dog, and they are hereby authorized to do so."
APPENDIX D

CHESTER, PENNSYLVANIA - ORDINANCE REGULATING PIT BULLS
TOWNSHIP OF CHESTER

ORDINANCE NO. 1 - 1986

AN ORDINANCE OF THE TOWNSHIP OF CHESTER, DELAWARE COUNTY, PENNSYLVANIA, AMENDING CHAPTER 620 OF THE CODIFIED ORDINANCES OF THE TOWNSHIP OF CHESTER ENTITLED "ANIMALS" BY REGULATING AND DEFINING "PIT BULLS", BY PROVIDING FOR REGULATIONS GOVERNING AND FEES CHARGED FOR THE LICENSING OF PIT BULLS; BY PROVIDING FOR THE REGULATION OF THE CONFINEMENT AND THE DESTRUCTION OF PIT BULLS; BY PROVIDING FOR PENALTY FOR THE VIOLATION THEREOF; AND REPEALING ALL ORDINANCES OF PARTS OF ORDINANCES INCONSISTENT THEREWITH.

THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF CHESTER DOES ORDAIN:

SECTION ONE. That Section 620.01 entitled "Definitions" of Chapter 620 entitled "Animals" of the Codified Ordinances of the Township of Chester shall be amended by adding the following definitions:

"(e) 'Pit Bulls' as defined in this Ordinance shall include any of the following breeds of dogs: Staffordshire, Terrier, American Pit Bull, Pit Bull, any dog that fits into the above American Kennel definitions, dogs displaying the majority of traits of any of the above breeds, and any dog bred for fighting."

SECTION TWO. That the following new Subsections shall be added to Chapter 620 entitled "Animals" of the Codified Ordinances of the Township of Chester:

"(22) Pit Bulls are considered dangerous dogs and potentially hazardous to the community. Pit Bulls shall at no time or under any circumstances be permitted to run loose in or upon the Township of Chester. Any Pit Bull running loose in or upon the Township of Chester shall be subject to restraint, confinement, impoundment, and/or destruction by any police officer or other authorized person of the Township. It shall be the duty of any Township Police Officer or other authorized personnel of the Township to take whatever action is necessary under the circumstances to properly secure and restrain any loose Pit Bull, including the immediate destruction of the dog, and they are hereby authorized to do so."
(23) Licensing of Pit Bulls

(a) No person shall own, keep or own or harbor any Pit Bull over six (6) months of age in any household, residence or any property whatsoever within the Township without first obtaining a Pit Bull Kennel License from the Township of Chester.

(b) Applications for a Pit Bull Kennel License shall be filed with the Township Secretary and shall provide the following information:

(i) Name of applicant
(ii) Name of owner of Pit Bull if different from applicant
(iii) Address where Pit Bull will be kept
(iv) Number of Pit Bulls to be kept or housed on premises
(v) Exact location on the property where the Pit Bull(s) will be kept
(vi) Method to be used to secure or restrain the Pit Bull(s) on the property
(vii) Name of the person who will be responsible for the care and confinement of the Pit Bull(s)
(viii) Any other information requested by the Township.

(c) All applications shall be accompanied by a Fifty Dollar ($50.00) application fee which is non-refundable. The fee includes the cost of processing the application and any inspection prior to licensing.

(d) Pit Bull Kennel Licenses shall be issued by the Township Board of Supervisors or its duly authorized agent only after the appropriate fees have been paid and, if the applicant has complied fully with all applicable codes, statutes and regulations, including the Township's Zoning Code and the Pennsylvania Department of Agriculture regulations.

(e) Pit Bull Kennel License fees are as follows:

(1) One Pit Bull - $500.00 per year
(2) Two Pit Bulls - $1,000.00 per year
(3) Three Pit Bulls - $3,000.00 per year

(f) Revocation of License. If the applicant, owner or other person responsible for any Pit Bull kept within the Township violates any provision of this ordinance or any other applicable code, statute or regulation, then any license issued hereunder shall be automatically revoked and the license fee shall be retained by the Township. The Township Board of Supervisors reserves the right to refuse to issue or reissue a Pit Bull Kennel License to any person who has violated any provision of this Ordinance or other applicable code, statute or regulation.

(g) Bond Requirement. Any person who owns, keeps or harbors a Pit Bull must post a Twenty Thousand Dollar ($20,000) Bond with the Township of Chester to insure payment of any damages or injuries which might be caused by said Pit Bull.

(24) Confinement of Pit Bulls.

(a) All Pit Bulls must be confined in a secured building or enclosure.

(b) Pit Bulls may not be kept, housed or harbored in an exterior yard without first obtaining approval from the Zoning Hearing Board of the Township of Chester. In no case are Pit Bulls permitted to be kept, housed or harbored in an exterior yard unless the area is securely fenced with a fence approved by the Board of Supervisors or its authorized agent. Said fence must be at least eight (8) feet high and shall also require approval by the Zoning Hearing Board of the Township of Chester.

(c) All entrances to and exits from a property where a Pit Bull is confined must post a warning sign the size and type of which must be approved by the Township.

(d) Any Pit Bull which is taken off or removed from its area of confinement into or upon the Township of Chester must be kept securely leashed and muzzled at all times.

(4) More than Three Pit Bulls - $3,000.00 plus $3,000.00 for each Pit Bull above three.
(23) Licensing of Pit Bulls

(a) No person shall own, keep or own or harbor any Pit Bull over six (6) months of age in any household, residence or any property whatsoever within the Township without first obtaining a Pit Bull Kennel License from the Township of Chester.

(b) Applications for a Pit Bull Kennel License shall be filed with the Township Secretary and shall provide the following information:

(i) Name of applicant
(ii) Name of owner of Pit Bull if different from applicant
(iii) Address where Pit Bull will be kept
(iv) Number of Pit Bulls to be kept or housed on premises
(v) Exact location on the property where the Pit Bull(s) will be kept
(vi) Method to be used to secure or restrain the Pit Bull(s) on the property
(vii) Name of the person who will be responsible for the care and confinement of the Pit Bull(s)
(viii) Any other information requested by the Township.

(c) All applications shall be accompanied by a Fifty Dollar ($50.00) application fee which is non-refundable. The fee includes the cost of processing the application and any inspection prior to licensing.

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(c) All entrances to and exits from a property where a Pit Bull is confined must post a warning sign the size and type of which must be approved by the Township.

(d) Any Pit Bull which is taken off or removed from its area of confinement into or upon the Township of Chester must be kept securely leashed and muzzled at all times.
"(25) Destruction of Pit Bulls. Any Pit Bull which bites or attacks a person for any reason must be destroyed at the owner's expense or permanently removed from the Township of Chester. If said Pit Bull is not removed from the Township or destroyed, it shall be subject to seizure and/or destruction by the Township or its duly authorized.

"(26) Penalties.

"(a) Any person violating any provision of this Ordinance shall be subject to penalties set forth in §20.95 of the Codified Ordinances of the Township.

"In addition, any person violating the provisions of this Ordinance shall be subject to the following:

(1) Forfeiture of their Bond

(ii) Revocation of Pit Bull Kennel License and retention of the License by the Township.

(iii) Prohibition from obtaining another Pit Bull Kennel License for up to five (5) years."

SECTION THREE. Repealer. That all Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION FOUR. Severability. That the provisions of this Ordinance are severable and, if any portion is held by a court of competent jurisdiction to be in violation of federal or state constitutional or statutory law, that portion is hereby repealed, and the decision of the Court will not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the Board of Supervisor's intention that this Ordinance would have been adopted had such unconstitutional or ultra vires provision not been included.

SECTION FIVE. Effective Date. This Ordinance shall become effective five (5) days after its adoption pursuant to the applicable laws.

WE HEREBY CERTIFY that this Ordinance was duly enacted this 6th day of February, 1986.

[Signatures]

APPENDIX E

FEDERAL DISTRICT COURT
COURT OPINION DENYING A PRELIMINARY INJUNCTION
AGAINST THE CHESTER, PENNSYLVANIA ORDINANCE
"(25) Destruction of Pit Bulls. Any Pit Bull which bites or attacks a person for any reason must be destroyed at the owner's expense or permanently removed from the Township of Chester. If said Pit Bull is not removed from the Township or destroyed, it shall be subject to seizure and/or destruction by the Township or its duly authorized.

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(i) Forfeiture of their Bond

(ii) Revocation of Pit Bull Kennel License and retention of the License by the Township.

(iii) Prohibition from obtaining another Pit Bull Kennel License for up to five (5) years."

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SECTION FIVE. Effective Date. This Ordinance shall become effective five (5) days after its adoption pursuant to the applicable laws.

WE HEREBY CERTIFY that this Ordinance was duly enacted this 6th day of February, 1986.

[Signatures of Supervisors]
In view of the appropriateness in referring to the FCC a matter requiring a resolution consistent with the FCC's regulatory responsibilities and concededly "beyond the conventional experience of judges," Far East Conference v. United States, 342 U.S. 570, 574, 72 S.Ct. 492, 494, 96 L.Ed. 576 (1952), the court requested the parties' written positions on referral. On February 21, 1986, the court and counsel met and discussed the method and scope of referral to the FCC, the necessity for surety, and the stay or dismissal of this action pending the receipt of the FCC's view.

Accordingly, the following is ordered.

1. The plaintiffs are to file a petition for declaratory ruling with the FCC on or before March 27, 1986.

2. The petition is to include a question inquiring whether, under the facts of this action as determined by the FCC, sections 3(b) and 3(c) of the Act and any DPUC decisions implementing those sections of the Act regulate interstate communications within the FCC's jurisdiction pursuant to the Communications Act of 1934 or pursuant to the rules, regulations, or decisions of the FCC adopted according to its authority.

3. The Stipulation filed December 19, 1985, shall remain in effect except that each plaintiff is ordered to post security with the clerk of this court on or before June 1, 1986, in the form of a renewable surety bond or letter of credit for the compensation payments to the defendant SNETCo envisioned by the Act and ordered by the DPUC. Sprint's security is to be in the amount of $500,000. MCI's security is to be in the amount of $1,000,000. Rules 65(c) and 65.1, Fed.R.Civ.P., will apply to the posting of this security, including the eventual assessment as taxable costs against SNETCo for Sprint and MCI's expenses incurred in posting the security should the plaintiffs prevail in this action.

4. This order does not preclude any party from moving this court for relief from the stipulated stay during the pendency of this action.

5. Discovery and all pending motions are stayed until the FCC rules on the ordered petition.


Action was brought challenging township's ordinance regulating pit bull dogs. The District Court, Katz, J., held that township could reasonably determine that pit bulls were dangerous. Preliminary injunction denied.

Constitutional Law 0237

Township ordinance regulating the keeping of pit bull dogs could reasonably be found to relate to township interest in safety to preclude equal protection claim based on lack of similar regulation of other breeds in light of testimony of health officer and chief of police to their dangerousness. U.S.C.A. Const.Amend. 14.

Clinton L. Johnson, Chester, Pa., for plaintiffs.

Christopher J. Gorbey, Media, Pa., for defendants.
In view of the appropriateness in referring to the FCC a matter requiring a resolution consistent with the FCC’s regulatory responsibilities and concededly “beyond the conventional experience of judges,” Far East Conference v. United States, 342 U.S. 570, 574, 72 S.Ct. 492, 494, 96 L.Ed. 576 (1952), the court requested the parties written positions on referral. On February 21, 1986, the court and counsel met and discussed the method and scope of referral to the FCC, the necessity for surety, and the stay or dismissal of this action pending the receipt of the FCC’s view.

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Rules 65(c) and 65.1, Fed.R.Civ.P., will apply to the posting of this security, including the eventual assessment as taxable costs against SNETCo for Sprint and MCI’s expenses incurred in posting the security should the plaintiffs prevail in this action.

4. This order does not preclude any party from moving this court for relief from the stipulated stay during the pendency of this action.

5. Discovery and all pending motions are stayed until the FCC rules on the ordered petition.

Alonzo STARKEY, James Goins, and John Corporal, all individually and on behalf of all others similarly situated v. TOWNSHIP OF CHESTER, a municipal organization and the Board of Supervisors of the Township of Chester.

Civ. A. No. 86-0865.


Action was brought challenging township’s ordinance regulating pit bull dogs. The District Court, Katz, J., held that township could reasonably determine that pit bulls were dangerous.

Preliminary injunction denied.

Constitutional Law 323

Township ordinance regulating the keeping of pit bull dogs could reasonably be found to relate to township interest in safety to preclude equal protection claim based on lack of similar regulation of other breeds in light of testimony of health officer and chief of police to their dangerousness. U.S.C.A. Const.Amend. 14.

Clinton L. Johnson, Chester, Pa., for plaintiffs.

Christopher J. Gorbey, Media, Pa., for defendants.
MEMORANDUM

KATZ, District Judge.

Plaintiffs seek a preliminary injunction against a Chester Township Ordinance regulating Pit Bull dogs. Township of Chester, Pa., Ordinance No. 1-1986 (Feb. 6, 1986). Counsel advise that no reported case has considered the constitutionality of such a law.

The Ordinance defines the breed of dog by American Kennel terminology and seeks to reach dogs "bred for fighting." The key facts of the Ordinance are: "Pit Bulls are considered dangerous dogs potentially hazardous to the community." Any Pit Bull running loose is subject to police action. Licenses for Pit Bulls may be purchased at fees ranging from $500 per year for one dog to $3000 for each Pit Bull above three. Pit Bull keepers must post a $20,000 bond to cover injuries caused by their dogs. Pit Bulls must be confined in a secure place. Pit Bulls removed from confinement must be leashed and muzzled. A Pit Bull which attacks a person must be destroyed or removed from Chester Township. The Ordinance became effective February 12, 1986.

Plaintiffs attack the Ordinance as facially discriminatory for applying just to Pit Bulls, not other breeds of dogs, thus violating the equal protection rights of plaintiffs. Plaintiffs also claim that the Ordinance violates plaintiffs’ First Amendment rights, including the equal protection rights of plaintiffs. Plaintiffs seek a preliminary injunction against a Chester Township Ordinance regulating Pit Bull dogs.

The Township could reasonably determine, as it did, that Pit Bulls are dangerous. The Township’s Health Officer testified that the regulation was necessary in this densely populated Township; the Pit Bull bites to kill without signal. The Town- ship does not have to regulate every dangerous animal in the same way to pass constitutional muster. The Ordinance could be reasonably described as the Ordinance may be reasonable.

The Township could reasonably determine, as it did, that Pit Bulls are dangerous. The Township’s Health Officer testified that the regulation was necessary in this densely populated Township; the Pit Bull bites to kill without signal. The Township does not have to regulate every dangerous animal in the same way to pass constitutional muster. The Ordinance could be reasonably described as the Ordinance may be reasonable.

Accordingly, the motion for a preliminary injunction is DENIED.

1. The experience of the Township Dog Control Officer ranked Pit Bulls at the top of the list of dangerous dogs. Minutes of Township Meeting, 2/6/86. Exhibit D. Motion To Dismiss. At the hearing, plaintiffs’ counsel advised the Court that what led to the Ordinance were complaints that a Pit Bull, Grumpy, had attacked a child. Plaintiff Starkey testified at the hearing that its owner, Mr. Cline, had not consulted Grumpy.

2. Wackenhut Corp. v. Colarco, 362 F.Supp. 715 (D.C.R.I.1973) is different since the statute prohibiting the use of trained dogs by private detectives was not "reasonably necessary for the accomplishment of the governmental purpose." . . . 362 F.Supp. at 718 (emphasis in original) (citing Bass v. Little Rock, 381 U.S. 516, 86 S.Ct. 432, 4 L.Ed.2d 480 (1966)).
MEMORANDUM

KATZ, District Judge.

Plaintiffs seek a preliminary injunction against a Chester Township Ordinance regulating Pit Bull dogs. Township of Chester, Pa., Ordinance No. 1-1986 (Feb. 6, 1986). Counsel advise that no reported case has considered the constitutionality of such a law.

The Ordinance defines the breed of dog by American Kennel terminology and seeks to reach dogs "bred for fighting." The key facts in the Ordinance are:

"Pit Bulls are considered dangerous dogs and potentially hazardous to the community." Any Pit Bull running loose is subject to police action. Licenses for Pit Bulls may be purchased at fees ranging from $500 per year for one dog to $3000 for each Pit Bull above three. Pit Bull keepers must post a $20,000 bond to cover injuries and muzzled. Pit Bulls, not other breeds of dogs, thus violate the equal protection rights of plaintiffs. The Ordinance imposes license fees for Pit Bulls, not other breeds of dogs, thus violating the equal protection rights of plaintiffs.

The Township could reasonably determine, as it did, that Pit Bulls are dangerous. The Township's Health Officer testified that the regulation was necessary in this densely populated Township; the Pit Bull bites to kill without signal. The Township does not have to regulate every dangerous animal at the same time in the same way to pass constitutional muster. The Township has not gone too far, insofar as it did, that Pit Bulls are dangerous breed of dog in his experience and that he recommended the Ordinance to the Board of Supervisors.

The Township Dog Control Officer ranked Pit Bulls at the top of the list of dangerous dogs. Minutes of Township Meeting, 2/6/86. Exhibit D, Motion To Dismiss. At the hearing plaintiffs' counsel advised the Court that what led to the Ordinance were complaints of dangerous dogs, including police, that Pit Bulls were the most dangerous breed of dog in his experience and that he recommended the Ordinance to the Board of Supervisors.

Action contested final results of administrative review of antidumping finding. Foreign exporter moved for judgment by agency order and defendant intervenor, a domestic corporation, opposed intervention, and sought affirmance of administrative review under challenge. The Court of International Trade, Ford, Senior Judge, held that exporter's failure to produce information requested by International Trade Association completely justified Commerce Department's use of best information available in reaching its determination of dumping margin with respect to sale of large power transformer; exporter was either conspicuously uncooperative with Commerce Department during course of underlying reviews, or laboring under severe misconceptions as to administrative procedure involved in administrative United States antidumping law. Tariff Act of 1930, § 775(a), as amended, 19 U.S.C.A. § 1677(a).

I.

FEDERAL SUPPLEMENT

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and Commerce Clause claims are frivolous on this record.

Accordingly, the motion for a preliminary injunction is DENIED.

II.


Statement alleged "related party relationship" between foreign exporter's predecessor and foreign exporter's principle home customer market, within meaning of 19 CFR § 353.22(b), generally precluding sales between "related" parties in determination of foreign market value, and Tariff Act § 771(13), governing inclusion of term "exporter" for purpose of determining United States price; statements outlined pattern of common ownership and control, where both companies were financially controlled under various entities, by Italian government, there was no competitive bidding between foreign exporter and other home-market manufacturers for sales to exporter's principle home-market customer, and future contracts were allocated and prices established on predetermined basis. Tariff Act of 1930, § 771(13), as amended, 19 U.S.C.A. § 1677(13).

II.

FEDERAL SUPPLEMENT

2.

After specified period within which information requested by International Trade Association need not be provided, Association must refuse to consider untimely submitted information and instead rely on best information available. Tariff Act of 1930, § 751(a), as amended, 19 U.S.C.A. § 1677(a).

III.

FEDERAL SUPPLEMENT

1.

Exporters' failure to produce information requested by International Trade Association completely justified Commerce Department's use of best information available in reaching its determination of dumping margin with respect to sale of large power transformer; exporter was either conspicuously uncooperative with Commerce Department during course of underlying reviews, or laboring under severe misconceptions as to administrative procedure involved in administrative United States antidumping law. Tariff Act of 1930, § 776(b), as amended, 19 U.S.C.A. § 1677(b).

IV.

FEDERAL SUPPLEMENT

1.

Exporters' failure to ever respond to either Treasury Department or Commerce

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APPENDIX F

PITTSBURG, KANSAS
ORDINANCE REGULATING PIT BULLS
APPENDIX F

PITTSBURG, KANSAS
ORDINANCE REGULATING PIT BULLS
APPENDIX F
PITTSBURG, KANSAS - ORDINANCE REGULATING PIT BULLS

CITY OF PITTSBURG, KANSAS,

Plaintiff,

vs.

RAY JONES,

Defendant.

CITY OF PITTSBURG, KANSAS,

Plaintiff,

vs.

RICHARD W. EDWARDS,

Defendant.

CASE NO. 86-2574

CASE NO. 86-2719

MEMORANDUM OPINION

The above-referenced matters were taken under advisement by the Court on January 16, 1987, pending the submission of briefs by the parties. Briefs were submitted by the Defendants on March 13, 1987, followed by the City of Pittsburg's brief on March 23, 1987.

The Defendants seek to have Ordinance C-563 declared unconstitutional. This ordinance is more commonly known as the "Pit Bull" ordinance and the Defendants jointly allege that said ordinance is constitutionally defective by reason of the following arguments:

1. Proposition I: Ordinance C-563 violates pit bull owners equal protection rights in that said ordinance singles out for stringent regulation only the one breed of dog, namely, pit bulls. The Defendants also allege that said ordinance is overreaching and overinclusive because not all pit bull dogs are vicious.

2. Proposition II: Ordinance C-563 is unconstitutionally vague
MEMORANDUM OPINION

The above-referenced matters were taken under advisement by the Court on January 16, 1987, pending the submission of briefs by the parties. Briefs were submitted by the Defendants on March 13, 1987, followed by the City of Pittsburg's brief on March 23, 1987.

The Defendants seek to have Ordinance C-563 declared unconstitutional. This ordinance is more commonly known as the "Pit Bull" ordinance and the Defendants jointly allege that said ordinance is constitutionally defective by reason of the following arguments:

1. Proposition I: Ordinance C-563 violates pit bull owners equal protection rights in that said ordinance singles out for stringent regulation only the one breed of dog, namely, pit bulls. The Defendants also allege that said ordinance is overreaching and overinclusive because not all pit bull dogs are vicious.

2. Proposition II: Ordinance C-563 is unconstitutionally vague
and ambiguous because it is impossible to determine with
certainty whether or not a particular dog is of pit bull breed
and due process requires that citizens must have notice of the
reach of the law.

In summary, these are the primary and relevant propositions
advanced by the Defendants.

With regard to the Defendants first argument, it is well settled
that state and city governments possess inherent police powers and may
regulate the ownership, possession and use of dogs. See McQuillan on
Municipal Corporations. Police powers are defined as including all laws
restraining or prohibiting anything harmful to the welfare of the public.
Kalodimos vs. Morton Grove, 470 NE 2d 266. Further, generally
speaking, exercises of police power by a state or city government are
presumed to be constitutionally valid if a rational connection between
the requirements of the law and the promotion of the public safety can

Accordingly, the Court must determine if a rational connection can
be discerned between the requirements of Ordinance G-563 and the
promotion of public welfare or safety. More simply stated, can the City
of Pittsburg single out pit bull dogs for particular legislative attention
without including other varieties?

In answering this question, the Court reviewed the many exhibits
submitted by both parties. As a result, it is clear to this Court that
the pit bull breed is unique among other varieties of dogs in possessing
the following characteristics:

1. This breed attacks without warning and will generally not accept
   an opponent's submission, preferring to continue the attack
   until the opponent is dead or disabled;
and ambiguous because it is impossible to determine with certainty whether or not a particular dog is of pit bull breed and due process requires that citizens must have notice of the reach of the law.

In summary, these are the primary and relevant propositions advanced by the Defendants.

With regard to the Defendants first argument, it is well settled that state and city governments possess inherent police powers and may regulate the ownership, possession and use of dogs. See McQuillan on Municipal Corporations. Police powers are defined as including all laws restraining or prohibiting anything harmful to the welfare of the public. Kalodimos vs. Morton Grove, 470 NE 2d 266. Further, generally speaking, exercises of police power by a state or city government are presumed to be constitutionally valid if a rational connection between the requirements of the law and the promotion of the public safety can be demonstrated. Kelly vs. Johnson, 925 US 238.

Accordingly, the Court must determine if a rational connection can be discerned between the requirements of Ordinance G-563 and the promotion of public welfare or safety. More simply stated, can the City of Pittsburg single out pit bull dogs for particular legislative attention without including other varieties?

In answering this question, the Court reviewed the many exhibits submitted by both parties. As a result, it is clear to this Court that the pit bull breed is unique among other varieties of dogs in possessing the following characteristics:

1. This breed attacks without warning and will generally not accept an opponents submission, preferring to continue the attack until the opponent is dead or disabled;
2. Has been bred for fighting;
3. Possesses characteristics of aggression, viciousness, and is said to be twice as strong as any other dog;
4. The breed further possesses an unusual bite in that it bites and holds its jaws shut, frequently requiring the prying open of the jaws;
5. An attack by a pit bull dog is generally very severe and devastating to the victim with substantial damage to the head and face area;
6. Although other breeds of dogs have been guilty of serious attacks upon humans, the pit bull statistically has been guilty in excess of any other breed in proportion to its population.

This Court is mindful of the dictates of Senthell vs. New Orleans and Carrollton R.R., 166 US 698, in which the U.S. Supreme Court indicated that legislatures have broad police powers to control dogs to protect against the public nuisance posed by vicious dogs.

Even though Ordinance G-563 is specifically devoted to pit bulls only, this court finds that with regard to the Defendants arguments as contained in Proposition I, there is a sufficient rational basis for the enactment of Ordinance G-563. By specifically regulating pit bulls, the City of Pittsburg has not ventured too far in light of the above-listed characteristics which seem to be unique to this breed as compared to the publics right to be protected from attacks.

With regard to the Defendants contention that the City pit bull ordinance is unconstitutionally vague and ambiguous, this Court must first determine whether or not the Defendants have standing to raise this issue. Since this is not a matter involving First Amendment freedoms, the Defendants cannot challenge the Ordinance on the grounds that it is vague as to others. See 16 C.J.S. Constitutional Law § 66.

Where no fundamental or First Amendment rights are involved, the Defendants cannot raise the issue of vagueness as it applies to others. With regard to the Defendants themselves, there was a stipulation at trial that the animals subject to the instant cases are infact pit bull dogs. The Defendants vague and ambiguous due process argument must therefore fail.

By way of commentary, this Court notes that constitutional requirements of specificity are outlined in Moody vs. Board of Shawnee County Commissioners, 237 Kan 67, in which the test for unconstitutional vagueness is whether the ordinance language conveys a sufficiently definite warning by common understanding and practice. In applying the Moody test to the present scenario, the Court is sufficiently convinced that the term "Pit bull" is generally met with understanding by the public. It is a common term and attempts to further define a pit bull beyond the language of Ordinance G-563 would be impossible. Ordinance G-563 would seem to be specific enough to put on notice those individuals who possess a pit bull breed. Further, an alleged pit bull breed owner cited with a violation of Ordinance G-563 will continue to be clothed with the constitutional protection of a trial in which the City would have to prove beyond a reasonable doubt that the animal in question is in fact of pit bull breed.

It is recognized that not all pit bulls are dangerous or aggressive. However, it is unfortunately impossible to exempt from canine control legislation those particular animals that are docile. To attempt to do so would result in the very arbitrariness that is constitutionally impermissible. Even though canine control laws affect dogs that are "harmless" such a broad reach of the law is necessary to accomplish protection of public
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Even though canine control laws affect dogs that are "harmless" such a broad reach of the law is necessary to accomplish protection of public
safety. See Sentel, supra.

The Court has further considered the argument that the enactment of Ordinance G-563 is tantamount to a constitutional "taking" of the personal property of pit bull owners. This argument fails on two considerations. Namely, pit bull owners have been put on adequate notice by the language of the ordinance and the manner in which it was enacted; and, the so-called "grandfather clause" contained therein allows present pit bull owners to retain possession if they comply with the provisions of the ordinance.

The Court is not unmindful of the arguments advanced by the Defendants. A pit bull ordinance in Hollywood, Florida, was struck down by the Broward County District Court in Holder vs. City of Hollywood, 81-13968 - CR 17th Cir. Broward County, Florida (1982).

Even though Holder struck down the city of Hollywood's pit bull ordinance, this Court believes the better-reasoned opinion is contained in Starkey vs. Chester Township, 628 F. Supp. 196 (E.D. Pa. 1986). The Federal Court for the Eastern District of Pennsylvania in that decision upheld the authority of a city to regulate pit bulls. Further, the City of Shawnee, Kansas, has had its pit bull ordinance upheld in Johnson County District Court. Apparently the village of Tijeras, New Mexico, has likewise had the validity of its pit bull ordinance upheld recently.

In conclusion, it appears that the more recent and more controlling decisions have been in favor of the constitutionality of the pit bull ordinances. It is always difficult in balancing individual liberties as opposed to the public's welfare. However, it is the Court's opinion that public welfare is a paramount concern and therefore there is a constitutionally sufficient rational basis for the enactment of Ordinance G-563.

Sentencing is set for July 29, 1987 at 2:00 p.m.

Donald R. Noland
Judge of the Municipal Court
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APPENDIX G

PITTSBURG, KANSAS
CITY COURT OPINION UPHOLDING CITY'S PIT BULL ORDINANCE
APPENDIX G

PITTSBURG, KANSAS
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APPENDIX G
PITTSBURG, KANSAS - CITY COURT OPINION UPHOLDING CITY'S PIT BULL ORDINANCE

(Published in The Morning Sun on September 16, 1986)

ORDINANCE NO. 0. 560

AN ORDINANCE Regulating The Keeping of Dogs Known As Pit Bulls Who Are Presently Located Within The City Limits of Pittsburg, Kansas, And Prohibiting The Keeping or Possessing of Any Other Pit Bulls Within Said City Limits.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PITTSBURG, KANSAS:

SECTION 1. DEFINITIONS. The words used in this Ordinance shall have the following definitions:

**Pit Bull Dog**
- (a) The bull terrier breed of dog;
- (b) Staffordshire bull terrier breed of dog;
- (c) The American pit bull terrier breed of dog;
- (d) The American Staffordshire terrier breed of dog;
- (e) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; and
- (f) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; and any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

SECTION 2. UNLAWFUL. It shall be unlawful to keep, harbor, own or in any way possess any pit bull dog within the city limits of Pittsburg, Kansas, except that pit bull dogs located within the City on the effective date of this Ordinance may be kept within the City upon strict compliance with the standards and requirements set forth in Section 3.

SECTION 3. Standards and Requirements. The following standards and requirements shall apply to pit bull dogs located within the city limits upon the effective date of this ordinance.

(a) REGISTRATION. Within ten (10) days of the effective date of this Ordinance each owner, keeper, harborer, or possessor of a pit bull dog shall register such dog with the City Clerk.

(b) Leash and Muzzle. No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, or structures. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(c) Confinement. All pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure and the structure must have a secure floor...
APPENDIX G
PITTSBURG, KANSAS - CITY COURT OPINION UPHOLDING CITY'S PIT BULL ORDINANCE

(Published in The Morning Sun on December 16, 1986)

ORDINANCE NO. 86-56

AN ORDINANCE Regulating the Keeping of Dogs Known As Pit Bulls Who Are Presently Located Within The City Limits of Pittsburg, Kansas, and Prohibiting the Keeping or Possessing of Any Other Pit Bulls Within Said City Limits.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PITTSBURG, KANSAS:

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Pit Bull Dog

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(c) The American pit bull terrier breed of dog; and
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(e) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; and
(f) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; and any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

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bull dog to any person within the City unless the recipient person shall sell, barter or in any other way transfer possession of a pit bull dog to persons who do not reside within the City.

(d) Confinement Indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(e) Signs. All owners, keepers, harborers or possessors of pit bull dogs must within ten (10) days of the effective date of this Ordinance display in a prominent place on their premises a sign easily readable by the public using the words “Beware of Dog”. In addition, a smaller sign is required to be posted on the kennel or pen of such animal.

(f) Insurance. All owners, keepers, harborers or possessors of pit bull dogs must within twenty (20) days of the effective date of this Ordinance provide proof to the Pittsburgh City Clerk of public liability insurance in a single incident amount of $50,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from owning, possessing, keeping or maintaining of such animal. Such Insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the Pittsburgh City Clerk.

(g) Identification Photographs. All owners, keepers, possessors, or harborers of pit bull dogs must within twenty (20) days of the effective date of this Ordinance provide to the City Clerk two color photographs of the dog clearly showing the color and approximate size of the animal.

(h) Reporting Requirements. All owners, keepers, possessors, or harborers of pit bull dogs must within ten (10) days of the incident, report the following information in writing to the Pittsburgh City Clerk as required herein-after:
   (a) The removal from the City or death of a pit bull dog;
   (b) The birth of offspring of a pit bull dog;
   (c) The new address of a pit bull dog owner should the owner move within the corporate city limits.

SECTION 4. Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way transfer possession of a pit bull dog to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the City.

SECTION 5. Animals Born of Registered Dogs. All offspring born of pit bull dogs within the City must be removed from the City within six (6) weeks of the birth of such animal.
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SECTION 6. Irrebuttable Presumptions. There shall be an irrebuttable presumption that any dog registered with the City as a pit bull dog or any of those breeds defined by Section 1 hereof is in fact a dog subject to the requirements of this Ordinance.

SECTION 7. Failure to Comply. It shall be unlawful for the owner, keeper, harborer, or possessor of a pit bull dog within the City of Pittsburgh to fail to comply with the provisions of this Ordinance. Any dog found to be the subject of a violation of this Ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City.

SECTION 8. Violations and Penalties. Any person violating or permitting the violation of any provision of this Ordinance shall upon conviction in Municipal Court be fined not less than $50.00 and not more than $500.00. In addition to the fine imposed, jail for period not to exceed thirty (30) days. Further, the court may order the dog removed from the City. Should the defendant refuse to remove the dog from the City, the Municipal Court Judge shall find the defendant in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this Ordinance continues may be deemed a separate offense. In addition to the foregoing penalties, any person who violates this Ordinance shall pay all expenses, including sums for shelter, food, handling, veterinary care, and expert testimony, which are necessitated by the person’s failure to abide by the provisions of this Ordinance.

SECTION 9. Irreversibility. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 10. Effective Date. This Ordinance shall take affect and be in full force from and after its passage, approval and publication in the official City newspaper.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF PITTSBURG, KANSAS, the ___ day of ___ 19_8_6.

ATTEST:

[Signature]

CITY CLERK - [Name]

[Seal]
APPENDIX H

NIMLO FIRST DRAFT OF PROPOSED MODEL ORDINANCE TO REGULATE VIOLENT DOGS
APPENDIX H

NIMLO FIRST DRAFT OF PROPOSED MODEL ORDINANCE TO REGULATE VICIOUS DOGS
November 5, 1987

Dear NIMLO Member:

We are working on a revision of our Model Ordinance Service. We will start with a proposed first draft of model ordinances, regulations or guidelines with reference to the Acquired Immune Deficiency Syndrome (AIDS), vicious dogs (with emphasis on pit bulls), and cable television franchises. These proposed ordinances will be sent to you, State League Counsel, and experts on each subject. After we receive NIMLO member comments, those of State League Attorneys and persons deemed to be experts on each subject, we will publish another proposed draft and send it for comments of those receiving the first draft. After the second set of comments we will then produce a final draft. The results will be sent to you for insertion in NIMLO's Model Ordinance Service with appropriate explanations and relevant court decisions, if any.

We start with the enclosed proposed vicious dog ordinance on which we request your comments or those of your assistant who works on this subject and any experience or court decisions you may have. This procedure will be followed for the Model AIDS Guidelines and Model Cable T.V. ordinances, which we hope to get to you soon. We are selecting other current municipal problem areas in updating all ordinances in the NIMLO Model Ordinance Service and would appreciate any suggestions you may have.

A statement of current law will be made as a preface to each Model Ordinance.

I remind NIMLO members of each member's obligation to send NIMLO the Current Code or compilation of their city's ordinances, plus all new ordinances for the NIMLO Code Library. We are proud of this Code Library as it is believed to be the largest, and most up to date, in existence.
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Thanking you for your cooperation on this very important NIMLO service, we hope for your comments on the vicious dog ordinance as quickly as you can conveniently send them so we can get this program underway.

Sincerely,
Roy D. Bates
President

NIMLO PROPOSED MODEL ORDINANCE FOR THE REGULATION OF VICIOUS DOGS

[Editor's note: States and local governments have developed varying approaches to the problem of vicious dogs. Some jurisdictions have singled out a specific breed of dog (i.e. "pit bulls") and imposed special regulations or controls on that breed. See, e.g., Shawnee, Kansas; Cincinnati, Ohio; Everett, Washington. See also Stanley v. Chester Township, 628 F.Supp. 196 (E.D. Pa. 1986). Other jurisdictions have drafted laws which regulate the broad category of vicious dogs, but which do not single out a specific breed as inherently vicious. See, e.g., Washington State; Joliet, Illinois. This NIMLO proposed ordinance provides model language for both a breed-specific ordinance and a more generic vicious dog ordinance.)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ..... Section 1: Definition of Terms. As used in this ordinance:

A. "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog.

B. "Vicious dog" means:

1. Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or

2. Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance; or

3. Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or

4. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
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President

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4. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
5. [Optional language for those desiring a breed-specific ordinance.] Any pit bull terrier, which shall be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Bull Terrier.

C. A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

Section Confinement. The owner of a vicious dog shall not suffer or permit the dog to go unconfined.

Section Leash and Muzzle. The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

Section Signs. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

Section Dog Fighting. No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.
Section Insurance. Owners of vicious dogs must within days of the effective date of this ordinance provide proof to the City Clerk of public liability insurance in the amount of at least , insuring the owner for any personal injuries inflicted by his or her vicious dog.

Section Penalties. Whoever violates any provision of this ordinance shall be guilty of a gross misdemeanor and may be punished by a fine of not less than and not more than , or imprisonment of not more than in jail, or by both fine and imprisonment.

Section Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court, such a decision shall not affect the validity of the remaining portions of this ordinance.
The University of Tennessee does not discriminate on the basis of race, sex, color, religion, national origin, age, handicap, or veteran status in provision of educational opportunities or employment opportunities and benefits.

The University does not discriminate on the basis of sex or handicap in the education programs and activities which it operates, pursuant to the requirements of Title IX of the Education Amendments of 1972, Pub.L. 92-318; and Section 504 of the Rehabilitation Act of 1973, Pub.L. 93-112; respectively. This policy extends to both employment by and admission to the University.

Inquiries concerning Title IX and Section 504 should be directed to Mr. Charles E. Shoopman, Jr., Executive Assistant, Institute for Public Service and Statewide Division of Continuing Education, 109 Student Services and Administration Building, Knoxville, Tennessee 37996-0212, (615) 974-6621. Charges of violation of the above policy should also be directed to Mr. Shoopman.