BREED SPECIFIC LEGISLATION: UNFAIR PREJUDICE & INEFFECTIVE POLICY

By
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This comment examines breed specific legislation—the unfortunate attempt of legislatures throughout the country to address the valid concern over vicious dog attacks by prohibiting or strictly regulating entire breeds, most often, pit bulls. Such legislation has succeeded in perpetuating uninformed stereotypes and creating a false sense of security for the public. However, breed specific legislation has failed to accomplish the goal of making society safer because it fails to address the responsibility of dog owners for dog attacks. In addition, these laws unfairly punish animal and owner alike by ignoring the obvious facts that dogs are individuals capable of a variety of emotions and behaviors, and that no breed is inherently good or evil. To prevent the tragedies that can occur when a dog attacks a human, legislation must take aim at the heart of the problem, the human owners that allow, through negligence or intentional mistreatment and training, these attacks to occur.

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I. INTRODUCTION

Pit bull[1]—the name alone strikes fear, or at least raises suspicion among many in the general public.[2] The mistrust of this breed is due in no small part to its portrayal in the media,[3] over the past fifteen years, as a terrifying menace, engineered to fight and kill.[4] As a result of this fearsome reputation, pit bulls have garnered a great deal of legislative attention.[5] In response to media accounts and public fears, numerous local governments across the United States have enacted breed-specific legislation—legislation that attempts to deal with the valid concern over vicious dog attacks by irrationally banning or strictly regulating the ownership of pit bulls and other allegedly vicious breeds.[6]

Much to the chagrin of dog owners who have challenged breed-specific ordinances and regulations on constitutional grounds, these laws are usually upheld, under a minimum scrutiny analysis.[7] However, simply because a piece of legislation passes minimum scrutiny does not mean that it is practical, sensible, or just.[8] For a law to meet

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[1] *See* Lynn Marmer, *The New Breed of Municipal Dog Control Laws: Are They Constitutional?*, 53 U. Cin. L. Rev. 1067 (1984) (the American Kennel Club ("AKC") or the United Kennel Club ("UKC"), the two largest American dog registries, recognize no specific breed called the "pit bull." Thus, the label of pit bull is frequently associated with several breeds of dog that are a mixture of bulldog and terrier: the American Staffordshire Terrier, the Staffordshire Bull Terrier, registered by the AKC; and the American Pit Bull Terrier, registered by the UKC. Although this article will refer to pit bulls as a breed, it should be understood that breed is meant only in the sense of a general group of dogs with common physical characteristics and not a breed in the official or technical sense).

[2] *See* Joe Stahlkuppe, *American Pit Bull & Staffordshire Terriers* 6 (Barron's Educ. Series 1995) ("In the past two decades of this century no breed of dog has been more maligned and misunderstood than the American pit bull terrier. Just the mention of the breed has been enough to send chills down the backs of some fairly knowledgeable dog owners, not to mention the fear that the name "pit bull" brings out in the average person"); *see* Judy Cohen & John Richardson, *Pit Bull Panic*, 36.2 J. Pop. Culture 285, 308 (2002).

[3] *See* Cohen & Richardson, *supra* n. 2 (explaining that the bad reputation of pit bulls among the general public is due, in part, to media accounts).

[4] *Id.* at 295 (prior to the pit bull's taking center stage, Rottweilers and Dobermans were demonized in the press). *See* Julie A. Thorne, *If Spot Bites the Neighbor, Should Dick and Jane Go To Jail*, 39 Syracuse L. Rev. 1445, 1446–47 (1988) (despite the fact that the pit bull accounts for only 2% of the total canine population, an undeserved and media-generated reputation is rapidly developing).

[5] *See* Sallyanne K. Sullivan, *Banning the Pit Bull: Why Breed Specific Legislation is Constitutional*, 13 U. Dayton L. Rev. 279, 279–80 (1988) (explaining that legislatures and municipalities have taken specific action against the pit bull).

[6] Marmer, *supra* n. 1, at 1067–68; Thorne, *supra* n. 4, at 1447–48; Sullivan, *supra* n. 5, at 279–80.

[7] Sullivan, *supra* n. 5, at 280–93 (discussing various theories under which people have challenged the constitutionality of breed-specific legislation and cases where such challenges have been made). A further discussion of the constitutional challenges is contained *infra* pt. II, A–C.

[8] *Id.* (citing *Exxon Corp. v. Gov. of Maryland*, 437 U.S. 117, 128 (1978)).

minimum scrutiny, it must only bear a rational relationship to its objective; it need not be the best, or even a well thought-out approach to the problem.[9]

This article looks past the constitutional questions and into the policy of breed-specific legislation. For the sake of comprehensiveness, it will discuss the basic constitutional arguments, but will focus on whether breed-specific legislation aimed at banning or restricting pit bull ownership is a fair and practical approach to protecting society from vicious dog attacks. Also, to increase the value of this article as a research tool, the appendix contains the relevant text of a number of breed-specific laws and ordinances. Although not all such laws are accounted for, the appendix provides a thorough overview.[10]

II. BREED-SPECIFIC LAWS

Breed-specific restriction legislation singles out the owners of a particular breed of dog and requires them to comply with special regulations not applicable to other dog owners.[11] Such legislation is prevalent throughout the United States and comes in two general forms,[12]

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[9] *Id.*

[10] *Infra* § VI (Appendix).

[11] *See e.g.* Miami-Dade Code (Fla.) §§ 5-17-5-17.6 (2003) (requiring all pit bull owners to meet strict confinement and registration requirements, as well as prove their ability to cover $50,000 in liability for injury caused by their dogs); Iola Code (Kan.) §§ 10-181-10-184 (2003) (requiring pit bull owners to follow special confinement, leash, and muzzle requirements); Manhattan Code Ordin. (Kan.) § 6-25 (2003) (holding pit bull owners to a higher standard of care regarding their knowledge of the propensity of their dogs to cause injury, and in effect creating strict confinement requirements for pit bulls); Oak Harbor Mun. Code (Wash.) §§ 7.32.010–7.32.130 (2003) (defining all pit bulls as potentially dangerous dogs, and providing for strict confinement and leash requirements).

[12] The following are examples of states that have breed-specific legislation at local levels. The list identifies some of the localities within the states that have such legislation, but is not intended to be exhaustive: Alabama. Pit bulls are banned in Irondale. Irondale Code Ordin. (Ala.) § 3-90 (2000). Arkansas. Breed-specific legislation is present in Maumell. Maumell City Code (Ark.) §10.134 (1999). Siloam Springs declared pit bulls vicious and dangerous, and requires special restrictions. Siloam Springs Mun. Code (Ark.) §§ 10-101–10-103 (2003). Colorado. Pit bulls are prohibited in Denver. Denver Code Ordin. (Colo.) § 8-55 (2003). Connecticut. Wethersfield has a ban on pit bull ownership and possession. Delaware. In Wilmington, pit bulls are heavily restricted. Wilmington Mun. Code (Del.) § 3.16 (2003). Florida. Pit bulls are banned in North Miami/ Dade County. Miami-Dade Co. Code (Fla.) §§ 5-17.1-5-17.6 (2003). There are also restrictions on pit bulls in Sunrise and Tamarac. Sunrise Code Ordin. (Fla.) §§ 4-46–4-53 (2003), and Tamarac Code Ordin. (Fla.) §§ 4-26–4-33 (2003). Indiana. American Pit Bull Terriers are heavily restricted in South Bend. *See* South Bend Mun. Code (Ind.) § 5-27 (2003). Illinois. It is illegal to own a pit bull in Wheeling. *See* Wheeling Mun. Code (Ind.) §§ 7.04.020(e)–7.08.010(d) (2003). Pit bulls are heavily restricted in Salem. Salem Code Ordin. (Ill.) §§ 5-51–5-85 (2003). The City of Lombard also declared pit bulls dangerous and vicious and therefore banned. Lombard Code (Ill.) § 90.04 (1990). Iowa. In Des Moines, pit bulls are defined as vicious dogs and have special license requirements. Des Moines Mun. Code (Iowa) §§ 18-41–18-43 (2003). Pit bulls are banned in Anamosa. Anamosa, Mun. Code (Iowa), §§ 55.01, 55.17 (2003). Kansas. Pit bulls are banned in Topeka. Topeka Code (Kan.) §§ 18-141-18-148 (2003). Pit bulls are considered danger-

specific restrictions and outright bans.[13] More often than not, such restrictions and bans are directed towards pit bulls.[14]

Breed-specific legislation in the form of a ban is a ban on pit bulls and other breeds.[15] In 1984, the Village of Tijeras, New Mexico passed such an ordinance.[16] Section VI, Paragraph I of the ordinance makes it unlawful "to own or possess in the Village any dog of the breed known as American Pit Bull Terrier."[17] It further provides that "[a]ny such dog may be impounded by the Mayor or Animal Control Officer *to be destroyed* as provided herein."[18] The ordinance did not prohibit the ownership of any other type of dog.[19] Similarly, ordinances in Fergu-

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ous dogs in Manhattan. Manhattan Code of Ordin. (Kan.) §§ 6-21-6-25 (2003). There are special requirements for pit bull ownership in Iola. Iola Code (Kan.) §§ 10-181-10-184 (2003). Louisiana. Morgan City has restrictions on pit bulls and Rottweilers. *See* Morgan City Code Ordin. (La.) § 18-64 (2003). Michigan. Pit bulls are restricted in Detroit. Detroit Code Ordin. (Mich.) §§ 6-2-1, 6-2-4 (2002). Missouri. There are pit bull bans in Ferguson and Butler. Ferguson Code Ordin. (Mo.) § 6-20 (2003), and Butler City Code (Mo.) § 5-36 (2002). North Dakota. Minot has banned pit bulls. Minot Code Ordin. (N.D.) § 7-34 (2003). Ohio. Mentor defines pit bulls as vicious dogs and has banned them. *See* Mentor Code Ordin. (Ohio) §§ 90.13, 90.14 (2000). Bay Village classifies pit bulls as vicious and has special restrictions for their keeping. *See* Bay Village Cod. Ordin. (Ohio) §§ 505.19-505.24 (2003). Rhode Island. Providence has a mandatory insurance requirement for pit bulls. Providence Code Ordin. (R.I.) § 4-54 (2002). Bristol also requires insurance on Pit Bulls, American Staffordshire Terriers, and Bull Terriers. Bristol Code Ordin. (R.I.) § 6-81 (2001). Washington. There is breed-specific legislation in Oak Harbor. Oak Harbor Mun. Code (Wash.) §§ 7.32.010–7.32.130 (1987). Pit bulls are banned in Yakima. *See* Yakima Mun. Code (Wash.) tit 6, ch. 6.18 § 020 (1987). *See Breed Specific Legislation*, http://www.pbrc.net/breedspecific.html (accessed Jan. 18, 2004).

[13] *Compare* South Bend Mun. Code (Ind.) § 5-27 (2003) (requiring pit bull owners to obtain a special license, for which they must have, among other things, $300,000 in insurance to cover potential injury caused by the dog), *with* Topeka Code Ordin. (Kan.) §§ 18-141–18-148 (2003) (making it unlawful to keep a pit bull within city limits).

[14] *See infra section VI* (Appendix).

[15] *Compare e.g.* Irondale Code Ordin. (Ala.) § 3-90 (2000) (making it unlawful to keep a pit bull within city limits, with a limited exception for owners of pit bulls living within city limits at the time of the ordinance's creation, provided the owners follow strict registration, insurance, and confinement requirements) *with e.g.* Denver Code Ordin. (Colo.) § 8-55 (2003) (making it unlawful to keep a pit bull within city limits with an exception for owners with licensed pit bulls living within city limits at the time of the ordinance's creation, and after its creation, owners that obtain a special pit bull license before acquiring a pit bull, provided the owners follow strict registration, insurance, confinement, as well as other special requirements); *compare e.g.* Topeka Code Ordin. §§ 18-141–18-148 (making it unlawful to keep a pit bull within city limits) *with e.g.* Butler City Code (Mo.) § 5-36 (2002) (making it unlawful to keep a pit bull within city limits, with an exception for owners of pit bulls living within city limits at the time of the ordinance's enactment, provided the owners follow strict registration, insurance, and confinement requirements).

[16] Tijeras Ordin., N.M. Ordin. 32 (May 14, 1984).

[17] *Id.*

[18] *Id.* (emphasis added).

[19] *See id.* (law does not affect other breeds of dogs; only pit bulls).

son, Missouri and Yakima, Washington also established bans on pit bulls within city limits.[20]

While a handful of municipalities ban pit bull ownership altogether, most jurisdictions considering the issue, have chosen to impose various restrictions on pit bull ownership. For example, an ordinance in South Bend, Indiana requires all pit bull owners to obtain a special license and demonstrate that they have $300,000 in liability insurance to cover any potential injuries caused by their dog(s).[21] Owners must also provide proof of their age and address, as well as pictures of their dog(s).[22] Once the owner receives the special pit bull license, a veterinarian must tattoo the dog with an individual identification number.[23] A similar ordinance in Morgan, Louisiana defines all pit bulls as vicious dogs and provides that owners must keep them in special enclosures with walls at least six feet high.[24] This ordinance also requires that pit bull owners maintain $100,000 in liability insurance, have their dogs tattooed with special identification numbers, and obtain special vicious dog licenses.[25]

Regardless of the form, all breed-specific legislation shares the essential characteristic of singling out breeds in an attempt to protect society. There is no consideration given to the individuality of dogs. Instead, any dog fitting a particular description is treated as a menace, even if that treatment is unwarranted and the individual animal poses no actual threat to the community. This type of legislation is based on the belief that dogs such as pit bulls possess inherent traits, like strength and aggression, which make all members of the group dangerous.[26] Even if a particular animal has behaved as a "model citizen," the potential for disaster is always just beneath the surface, and it is this potential danger that justifies blanket prohibitions.[27] However, these justifications are nothing more than a flagrantly mistaken stereotype of a misunderstood breed. Indeed, these generalizations appear facially equivalent to violations of equal protection pertaining to humans.

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20 Ferguson, Mo., Code of Ordin. § 6-20 (1996) (making it unlawful to keep a pit bull within city limits, with an exception for owners of pit bulls living within city limits at the time of the ordinance's enactment, provided the owners follow strict registration, insurance, and confinement requirements); Yakima, Wash., Mun. Code § 6.18.020 (1987) (making it unlawful to keep a pit bull within city limits).

21 South Bend Mun. Code § 5-27 (requiring pit bull owners to obtain a special license, for which they must have, among other things, $300,000 in insurance to cover potential injury caused by the dog).

22 *Id.*

23 *Id.*

24 Morgan City Code Ordin. (La.) § 18-64 (1999).

25 *Id.*

26 *See e.g.* Iola, Kan., Code, ch. 10, art. IV, Div. 3, § 10-182 (1988) (finding that pit bulls are inherently dangerous, that the possession of them within city limits poses a significant threat to public safety, health and welfare, and that protective measures on the part of pit bull owners are inadequate to avoid attacks by these animals).

27 *See* Sullivan, *supra* n. 5, at 284 (expressing the view that no single pit bull can ever be trusted).

III. CONSTITUTIONAL CHALLENGES

Dog owners faced with breed-specific legislation must rely on the judicial system to protect them from breed-specific regulations. As such, they have brought numerous suits challenging the constitutionality of the ordinances and laws burdening them.[28] These suits generally allege that breed-specific legislation is unconstitutionally vague, as well as in violation of substantive due process and equal protection.[29]

A. Substantive Due Process

The substantive due process challenge is relatively simple. Under a minimum scrutiny analysis, in order for a statute to satisfy the due process clauses of the fifth and fourteenth amendments, it must be rationally related to a legitimate legislative goal or purpose.[30] Strict scrutiny is applied only when the law at issue implicates a fundamental right or involves a suspect classification of people.[31] As dog ownership is not a fundamental right,[32] and pit bulls are not a suspect class, breed-specific laws will overcome substantive due process challenges as long as they bear some rational relationship to the legitimate goal of public safety.[33]

Therefore, state and local governments may enact constitutionally valid breed-specific legislation under their broad police powers.[34] "Police power encompasses the protection of the health, safety, and welfare of the public" and as a general rule, exercises of police power by a state or city are presumed to be constitutionally valid.[35] Accordingly, courts will generally uphold breed-specific legislation against substantive due process challenges.[36]

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[28] *See* Marmer, *supra* n. 1, at 1067 ("Municipal legislators across the country recently have been confronted with the problem of serious attacks on people by pit bull dogs").

[29] *See* Sullivan, *supra* n. 5, at 280 (although this article takes a shockingly narrow-minded and stereotypical view of pit bulls, it provides a sufficient explanation of the constitutional challenges to breed-specific laws).

[30] Sullivan, *supra* n. 5, at 281–82.

[31] *Id.*

[32] *See Greenwood v. City of N. Salt Lake*, 817 P.2d 816, 820 (Utah 1991) (constitutional challenge to an ordinance classifying all pit bulls as vicious dogs and providing special licensing, confinement, and insurance requirements for owners).

[33] *See* Marmer, *supra* n. 1, at 1075–76 (explaining that most substantive due process challenges to breed-specific legislation fail because the laws meet minimum scrutiny).

[34] *See id.* at 1070–71 (noting that a state's right to exercise police power is not derived from any provision of the constitution, but rather is traditionally implied from state sovereignty).

[35] *Id.* (footnote omitted).

[36] *See* Sullivan, *supra* n. 5, at 281–82 ("The due-process clauses of the fifth and fourteenth amendments to the Constitution require that the statute in question 'bear a rational relation to a legitimate legislative goal or purpose,' unless the statute implicates a 'fundamental right' entitled to constitutional protection, which would require a narrower fit between the goal and the statute." Since dog ownership is not a "fundamental

B. Equal Protection

Although the same minimum level of scrutiny applies to challenges based on equal protection, the issues are more complex.[37] Under an equal protection analysis, the essential question is whether there is a rational purpose for the divergent treatment of pit bull owners and other dog owners.[38] In other words, the discrimination against pit bull owners must rationally relate to the purpose of the statute.[39]

Equal protection challenges often focus on the scope of the statute at issue by arguing that it is either overinclusive or underinclusive.[40] Overinclusive laws regulate a larger category of subjects than is necessary to accomplish the legislation's objective, and underinclusive laws regulate groups too small to effectively accomplish the statute's purpose.[41]

Pit bull owners bringing equal protection challenges attack the reasonableness of breed-specific laws by asserting that they are underinclusive, overinclusive, or both.[42] Thus, owners claim that pit bulls are not uniquely dangerous, and that many other types of dogs cause serious injury. A law relating exclusively to pit bulls is unreasonably underinclusive because it fails to include other potentially dangerous types of dogs.[43] Thus, it irrationally prejudices pit bull owners while ignoring owners of dogs that pose an equal or greater threat to society.[44]

Some owners also claim that breed-specific laws are unreasonable because they are overinclusive.[45] They argue that breed-specific laws go too far in attempting to protect society.[46] As not all pit bulls are vicious, laws that apply to good-natured dogs unreasonably and unnecessarily burden the owners of dogs that pose no threat.[47] Therefore, these owners argue that it is unreasonable to prejudice all pit bull owners, when not all of their dogs are dangerous.[48]

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right," courts have had no trouble in determining that bans on pit bulls are rationally related to the legitimate legislative goal of public safety).

37 *Id.* at 285.

38 *See id.* (citing *Clements v. Fashing*, 457 U.S. 957, 963 (1982) ("classifications are set aside as violative of equal protection only if they are based solely on reasons totally unrelated to the pursuit of the state's goals." *Clements*, 457 U.S. at 963.).

39 *Id.*

40 *See* Thorne, *supra* n. 4, at 1455 (classifications may violate the equal protection clause if they are overinclusive or underinclusive).

41 *See e.g. Ry. Express Agency, Inc. v. New York*, 336 U.S. 106 (1949).

42 Thorne, *supra* n. 4, at 1455.

43 Sullivan, *supra* n. 5, at 288–89.

44 *Id.*

45 Diane Blackman, *Breed Specific Legislation, Practicality of Breed Specific Legislation in Reducing or Eliminating Dog Attacks on Humans and Dogs*, http://www.dogplay.com/pitbull.html (last updated July 14, 2002).

46 *See id.* (overbroad because it regulates all owners of dogs of all the named breeds).

47 Sullivan, *supra* n. 5, at 289–90.

48 *Id.*

Even if a breed-specific law is proven to be overinclusive or underinclusive, it is not necessarily unconstitutional.[49] As long as the government can show that the law is rationally related to its objective, it will be upheld under the traditional minimum scrutiny review.[50] Consequently, it is extremely difficult to succeed with an equal protection challenge to a breed-specific law.

C. *Vagueness*

In addition to equal protection challenges, pit bull owners also attack breed-specific laws on vagueness or procedural due process grounds.[51] Procedural due process requires that the law at issue provide those affected with sufficient notice of the conduct being regulated or prohibited.[52] A law failing to provide sufficient notice is considered unconstitutionally vague.[53] Essentially, pit bull owners allege that ordinances relating specifically to pit bulls fail to put owners on proper notice, because there is no real pit bull breed and it is difficult for owners of mixed breed dogs or adopted dogs without genealogical records to determine whether their dogs are covered by the ordinance.[54]

In order to overcome a vagueness challenge, a statute must clearly notify an ordinary individual of the prohibited conduct.[55] For example, breed-specific legislation must not only notify the community that it is illegal to keep pit bulls within the jurisdiction, but also define what exactly a pit bull is for the purpose of the statute.[56] Due to the difficulty in properly identifying which individual dogs are pit bulls, constitutional challenges based on vagueness have had some success.[57]

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[49] *Id.*

[50] *See id.* (law need only be rationally related to public purpose and the named classification to further that valid public policy).

[51] *See* Marmer, *supra* n. 1, at 1078.

[52] *See e.g.* Thorne, *supra* n. 4, at 1452 ("The procedural due process component requires that the law in question provide citizens with adequate notice as to the particular conduct that is being regulated or prohibited.").

[53] *See id.* (laws that fail to provide adequate notice or encourage arbitrary enforcement are unconstitutionally vague and in violation of due process).

[54] *See* Marmer, *supra* n. 1, at 1078 ("it is difficult to determine exactly which registered breeds a pit bull dog ordinance encompasses").

[55] *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

[56] *See* Marmer, *supra* n. 1 (Pit bulls are not technically a breed, but are a group of dogs that share common characteristics).

[57] *Holder v. City of Hollywood*, 81-13968-CR, at ¶¶ 8, 11 (Broward County Ct., Fla., Nov. 9, 1982) (available Nov. 18, 1982, City Atty's Office) (court struck down ordinance for violating the owners' fourteenth amendment rights due to lack of notice problems within the ordinance, and held that owners of mixed breed or unregistered dogs would be unable to determine whether they were affected by the ordinance); *see Garcia*, 767 P.2d at 357–58 (holding that a pit bull can be recognized by its physical appearance); *Greenwood*, 817 P.2d at 819–20 (holding that even though the ordinance could have been written "more clearly" the statute was not unconstitutionally vague on its face because of an administrative remedy, which allowed dog owners to request a determination by the city manager as to whether the ordinance applied to their dog).

However, courts do not generally invalidate breed-specific legislation on constitutional grounds.[58]

In *Greenwood*, the Supreme Court of Utah upheld a breed-specific ordinance against constitutional challenges by pit bull owners and breeders.[59] The ordinance imposed special licensing, confinement and insurance requirements on fierce, dangerous, and vicious dogs, defined as including pit bulls.[60] Plaintiffs claimed the ordinance was unconditionally vague and violated equal protection.[61] The lower court disagreed and found the ordinance to be constitutional.[62]

The Supreme Court of Utah, in addressing the vagueness claim, held that the ordinance was not unconstitutionally vague as applied to plaintiffs.[63] The court found that plaintiffs were given adequate notice that the ordinance applied to their dogs, and that any uncertainty could be ameliorated through an administrative remedy allowing owners who were unclear about whether their dogs were covered to obtain a determination by the city manager.[64] Therefore, the court held that even though the ordinance could have been more clearly written, it was not void for vagueness.[65]

In terms of equal protection, the opinion noted that minimum scrutiny applied because no fundamental right was at issue.[66] The court held that the ordinance was not overinclusive, stating that "[a]lthough it may be true that not all pit bulls are dangerous, the evidence supports the conclusion that, as a group, pit bulls are dangerous animals. Clearly, the ordinance's classification treating pit bull breeds differently than other breeds reasonably furthers and is rationally related to public safety."[67] The court also held that the ordinance was not underinclusive, explaining that although the ordinance did not cover all potentially dangerous dogs, "a law is not made unconstitutional simply because it does not cover all possible evils."[68] Further,

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[58] *See e.g. Garcia* 767 P.2d at 357–58 (since owners knew they had Pit Bulls, and not a mixed-breed dog, the statute was not vague as applied to them).

[59] *Greenwood*, 817 P.2d at 816.

[60] *See id.* at 817 (referring to N. Salt Lake City Animal Control Ordin. § 13-20-16).

[61] *Id.*

[62] *See id.* (However, the trial court struck down as unconstitutional the provision of the ordinance defining a vicious animal as "any animal by its unique nature of breeding which has known propensities to be aggressive toward any animals or person" finding it unconstitutionally vague. However, this did not invalidate the whole statute and did not affect the classification of all pit bulls as vicious. Therefore, an appeal was taken of the trial court's holding that the rest of the statute was constitutional).

[63] *Id.* at 820 (the court only examined the constitutionality of the ordinance as applied to plaintiffs, rather than to the general public, because the ordinance did not implicate any constitutionally protected conduct).

[64] *Id.*

[65] *Id.*

[66] *Id.*

[67] *Id.* at 821.

[68] *Id.*

legislatures have the right to address a perceived problem one step at a time.[69] Thus, the ordinance did not violate equal protection.[70]

Similarly, in *Garcia v. Village of Tijeras*, the court upheld an ordinance banning pit bulls within the village.[71] In response to a vagueness challenge, the court found that pit bulls share typical physical characteristics, which made it possible to identify them, whether or not they were registered. Therefore, because plaintiffs had adequate notice that the ordinance applied to them, it was not unconstitutionally vague.[72] The court also held that the ban did not violate substantive due process because it bore a rationale relationship to the legitimate purpose of protecting the health and safety of the village residents.[73] Evidence introduced at trial showed that on more than one occasion a pit bull caused injury to a village resident.[74] Therefore, even though the court recognized that there were good pit bulls as well as bad pit bulls, the ban was rationally related to increasing village safety.[75] Likewise, the divergent treatment of pit bull owners and the owners of other types of dogs did not violate equal protection, because the legislature was "entitled to address threats in a piecemeal fashion, countering each threat as it arises."[76]

In *Starkey v. Chester Township*, pit bull owners sought a preliminary injunction against an ordinance requiring them to obtain special licenses and follow stringent confinement requirements.[77] The court, deferring to legislative judgment as to the reasonableness of the ordinance, found it unlikely that plaintiffs would prevail on the merits, and therefore denied the motion for preliminary injunction.[78] It held that the township could reasonably conclude that pit bulls posed a danger, and thus, the ordinance was rationally related to the legitimate legislative purpose of protecting the citizens.[79]

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69 *Id.* (In determining constitutionality, courts are to adhere to the familiar principles that a "statute is not invalid under the Constitution because it might have gone further than it did . . . that a legislature need not strike all evils at the same time, and that reform may take one step at a time, addressing itself to the . . . problem . . . most acute to the legislative mind.").

70 *Id.* at 821.

71 *Garcia*, 767 P.2d at 356.

72 *Id.* at 358 (holding that since owners knew they had pit bulls, and not a mix-breed dog, the statute was not vague as applied to them).

73 *Id.*

74 *Id.*

75 *Id.*

76 *Id.* at 361 ("To satisfy equal protection tenets, it is not necessary that the Village address all potential threats from all breeds of dog; instead, the Village was entitled to address a phase of the problem that was of acute concern.").

77 *Starkey v. Chester Township*, 628 F. Supp. 196, 197 (E.D. Pa. 1986).

78 *Id.*

79 *Id.* (holding that the Township could reasonably determine that pit bulls are dangerous, it does not have to regulate every dangerous animal at the same time and in the same way in order to pass constitutional muster and it has not gone too far in regulating pit bulls).

These cases clearly demonstrate the general opinion of courts in many jurisdictions; breed-specific regulations are not unconstitutional and will be upheld despite claims asserting the opposite.

IV. POLICY AND REASONING

Despite the fact that breed-specific ordinances are often upheld against constitutional challenges, such ordinances do not necessarily reflect good or sensible policy. A rational relationship to a goal and an effective, fair, and efficient means of accomplishing that goal can be two very different things. The rationale behind breed-specific legislation is erroneous. At first glance it may seem like a sensible way to ameliorate the problem of vicious dog attacks. However, a deeper analysis clearly demonstrates that banning a whole breed of dog, whether the individual animals are vicious or not, is an imprudent approach.[80] In fact, breed-specific legislation is a product of the same type of short-sighted thinking that forms the basis of many negative stereotypes and prejudices.

Laws applying this type of reasoning to humans are almost always recognized as unacceptable. In our modern culture, legislation restricting the rights of a particular ethnic group, based on some perceived stereotype, is repulsive. The analogy to breed-specific legislation is obvious. Although dogs are not people, they are sentient, intelligent individuals, capable of learning. Therefore, just as it is with humans, it is ridiculous to stereotype an entire group.

The two main oversights of breed-specific legislation are that it ignores, or at least does not fully consider the role of animal owners in dog attacks, and that it does not fully take into consideration that a dog is an individual sentient being capable of a variety of emotions and behaviors. It is not the breed that is inherently good or evil, but rather people who determine whether dogs will be useful inhabitants of society.[81]

A. Owners

No matter how aggressive a dog may be, if it is well trained and properly controlled, it is not a significant danger. For example, it is almost impossible for a dog on a leash, with an alert owner to cause harm. The dog is under control, and therefore, cannot actively pursue or attack anyone. At the same time, a conscientious owner can warn anyone seeking to approach the dog that it is unsafe. Thus, a good owner can virtually eliminate the dangers posed by an aggressive dog.

Unfortunately, not every dog owner is responsible or sensible. Generally, the dog owners that pose the greatest threat are those who

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[80] *See* Marmer, *supra* n. 1, at 1080–81 (banning one breed of dog will not stop the problem of injuries to people).

[81] *Id.* at 1081; *see also* Stahlkuppe, *supra* n. 2, at 18 (characterizing all, or even most, pit bulls as dangerous dogs is wrong because all dogs, including pit bulls, become what there are bred, socialized, trained and taught to become).

obtain an aggressive dog as a status symbol or to use as a weapon, neglecting to properly care for and contain their dogs.[82] Breed-specific legislation fails to deal with the problems posed by these owners.[83]

The person who owns a dog in order to portray an intimidating image does not care about having a specific breed of dog; all he cares about is that the dog is tough, aggressive, sending a clear message to those around him. Therefore, a law banning pit bulls will not protect society from this person.[84] He will obtain another type of aggressive dog.[85] Thus, in order for breed-specific legislation to effectively deal with problems posed by this type of dog owner, it would have to enumerate and ban every type of potentially aggressive dog. However, even if this were possible, it is not a true solution to the problem posed by these owners, because they could simply obtain a non-aggressive dog and turn it, through improper treatment and abuse, into a vicious animal.

> [W]hat the proponents of bans of specific breeds fail to recognize is that a given breed is incidental to the cruder human impulse it is made to serve: the illicit thrill of bloody fighting rings, or of simply having the baddest dog on the block. Ban one breed, and there will be another to take its place. Ban, or at least crack down on, the human abuses of these animals . . . and all breeds revert to their better natures.[86]

Breed-specific legislation ignores both the fact that vigilant and caring dog owners can virtually eliminate the risk to the public associated with even the most aggressive dogs, and that the danger posed by irresponsible dog owners is not effectively addressed by banning dog breeds in a piece meal fashion. In addition, such legislation fails to properly account for the individuality of specific animals. Therefore, breed-specific legislation is faulty because it fails to look at the main cause behind aggressive dogs—the human owners.

B. Dogs as Individuals

The very breed that strikes fear in the heart of mainstream America, the pit bull, was once an American icon in the form of a dog named Petey. Pete the Pup, also known as Petey from the "Little Rascals/Our Gang" television show, was a pit bull.[87] This dog worked long hours on a set with children without ever harming anyone.[88] Although this does not prove every pit bull is a friendly lap dog, it does prove

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[82] Thorne, *supra* n. 4, at 1461.

[83] Marmer, *supra* n. 1, at 1081.

[84] *Id.*

[85] *Id.*

[86] Charles Siebert, *The Dog in the Fight,* N.Y. Times, § 6, 16 (Jan. 18, 2004).

[87] Saturday's Lesson, *Frequently asked Questions about Our Gang*, http://www.ramseyltd.com/rascals/faq/ (accessed Mar. 26, 2003) (site no longer available); *see also* Stahlkuppe, *supra* n. 2, at 19.

[88] Stahlkuppe, *supra* n. 2, at 19.

that not all pit bulls are vicious killers. Every pit bull, as a sentient and intelligent animal, is truly an individual.

One of the most obtuse arguments made in support of breed-specific ordinances is that keeping any pit bull is analogous to keeping a dangerous wild animal.[89] Even worse is the analogy of a pit pull to a weapon like a loaded gun, because it suggests that an intelligent living being is similar to an inanimate piece of metal designed for the sole purpose of causing injury and death.[90] These views are heavily influenced by the fact that pit bulls were originally bred as fighting dogs.[91] However, unknown to the general public, the pit bull's history as a fighting dog does not predispose it to aggression toward people.[92] In fact, the opposite is true.[93]

Historically, aggression toward humans was a trait despised by those breeding pit fighting dogs.[94] These people wanted the dogs to fight each other, not the handlers who went into the pit to oversee the fights.[95] Part of the handlers' job was to separate the dogs at various times during the fight.[96] If the dogs were prone to biting people, the handlers would have been unable to do their jobs.[97] Nobody would willingly attempt to separate two powerful dogs in the middle of fighting if they were afraid of being attacked. Indeed, pit bull aficionados take pride in the fact that pit bulls are the only breed controlled enough to avoid biting people even during mortal combat with another dog.[98]

Despite the facts behind the history of pit bull breeding, the myth of the pit bull as a berserk killer has lead to ridiculous stereotyping. One author has gone so far as to say, "[n]o pit bull can ever be completely trusted to remain a docile family pet,"[99] and that pit bulls attack people in crazed frenzies that do not occur in *any* other breed.[100] These types of generalizations when applied to other groups, such as

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89 *See* Sullivan, *supra* n. 5, at 287 (arguing that a pit bull poses a danger similar to that of a lion).

90 *See id.*; *see also* Marianna R. Burt, *Canine Legislation: Can Dogs Get a Fair Shake in Court?*, http://www.grapevine.net/~wolf2dog/javma1.htm (accessed Apr. 4, 2004) (questioning and challenging the view of those that compare certain breeds of dog to assault rifles).

91 *See* Sullivan, *supra* n. 5, at 284 (breed is meant only in the general sense of a group of dogs with common physical characteristics).

92 *See* Stahlkuppe, *supra* n. 2, at 22 (explaining that although animal aggressive behavior was a breed trait, human aggression was not).

93 *Id.*

94 *Id.* at 24.

95 *Id.*

96 *Id.*

97 *Id.* ("The very mechanics of the pit, as distasteful as they may be, necessitated that fighting dogs be picked up and handled by their owners during the fight. A dog that would injure its handler was a liability").

98 *Stahlkuppe*, *supra* n. 2 at 14 (discussing a filmed pit bull fight where the handlers were able to reach in and pick up their dogs several times without any fear of being bitten).

99 Sullivan, *supra* n. 5, at 284.

100 *Id.*

ethnic groups, are comical to the educated mind. However, because of the media driven fear of pit bulls, many people are willing to abandon their critical thinking in order to accept the stereotype.

Labeling a whole group of dogs as vicious without considering the individual characteristics of the animals that make up that group is more than shortsighted—it is ludicrous. A New York court recognized this absurdity when it refused to take judicial notice of the viciousness of pit bulls.[101] In *Carter v. Metro North Associates*, the court recognized that while

> many sources . . . assert the viciousness of pit bulls in general, numerous other experts suggest that at most pit bulls possess the *potential* to be trained to behave viciously [and that] scientific evidence more definitive than articles discussing the dogs' breeding history is necessary before it is established that pit bulls . . . are inherently vicious or unsuited for domestic living, such as . . . wolves and leopards would be.[102]

Laws singling out pit bulls for special restrictions are the legislative equivalent to judicially stereotyping pit bulls as vicious. However, as the court in *Carter* made clear, such generalizations are unwarranted.[103] In addition to unjustifiably punishing all pit bulls and their owners, breed-specific legislation fails to properly protect society from the danger posed by improperly contained vicious dogs.

Breed-specific legislation creates a false sense of security.[104] It gives the impression that because a specific breed of dog is banned or restricted, dog attacks will no longer be a danger. However, nothing could be further from the truth. Any type of dog can be dangerous, and "vicious dogs" are not the only dogs that bite. Sometimes the offending dog can be perfectly gentle, but bites out of fear or is antagonized into biting. If legislation aims to successfully protect society without unnecessarily punishing innocent dogs and dog owners, it must deal with the reality that every dog is an individual.[105]

V. PROPOSAL AND CONCLUSION

For a dog control law to be both effective and just, it must take into account two essential principles: (1) it is unreasonable to ban or restrict an entire group of dogs based on an unsupportable stereotype about their viciousness; every dog is an individual and should be

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101 *Carter v. Metro N. Assoc.*, 680 N.Y.S.2d 239 (1st Dept. 1998).

102 *Id.* at 240 (emphasis in original) (the court also noted that there was a lack of statistical evidence showing that a high percentage of the total number of pit bulls have engaged in violent incidents).

103 *Id.*

104 Blackman, *supra* n. 45, at "Conclusion" (explaining that although breed-specific legislation may "alleviate the anxieties of those who are particularly concerned about the reputation of particular dog breeds . . . [it] is not a practicable approach to the regulation of dogs").

105 *See* Thorne, *supra* n. 4, at 1462–63 (advocating for non breed-specific laws and discussing legislation enacted by the General Assembly of Georgia that addresses the viciousness of a dog, not by breed, but on a dog-by-dog basis).

treated accordingly, and (2) dogs are considered property, and as such, owners should be held accountable for their dogs actions.

Perhaps the easiest and most effective way to protect people from dog attacks is to create and enforce laws requiring the appropriate containment of all dogs, regardless of breed.[106] These laws should prohibit unsupervised dogs from roaming freely.[107] Dogs would have to be enclosed or properly supervised on an owner's property and leashed when off the property, unless in a designated dog run or play area.[108] This type of law would avoid breed discrimination, while putting the onus for dog bite prevention on the animal's owner—where it belongs.

The nationwide enactment and effective enforcement of such laws would prevent dogs from coming into unsupervised contact with people. In order to compel compliance, legislatures should make owners strictly liable to victims for any dog attacks resulting from violations of these laws. Additionally, criminal liability for serious violations should amount to more than a slap on the wrist.[109]

Proper containment can largely nullify the danger posed by even the most aggressive dog, and strict liability for failure to properly confine will convince owners either to be vigilant and responsible, or to forsake ownership of aggressive dogs. This combination will lead to a significant reduction in dog attacks, as well as proper compensation to victims. Although no vicious dog law can ever appropriately substitute for common sense and responsible behavior on the part of owners, imposing strict liability for failure to properly oversee a dog should help remind owners of their obligations.

As the above discussion suggests, an effective dog control law does not have to be a complex piece of legislation. Well-enforced laws that require owners to maintain control of their dogs, while holding them accountable if they do not, will protect society. Such laws will not only prevent dog bites, but will avoid discrimination against innocent dogs—and their owners—based upon unreasonable societal prejudice, driven by the media, and founded solely upon an ignorant stereotype.

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106 *See id.* at 1461 (because it is the owner who typically has most control over the animals, any legislation pertaining to dangerous or vicious dogs must also aggressively regulate the conduct of irresponsible owners).

107 *See generally* Code of the City of Oneonta (N.Y.) § 68-8 (2003) (no dogs shall be permitted to run at large without a leash).

108 *See id.* (Proper confinement and leashing is an essential element of any well thought out dog control law. This does not mean simply chaining a dog up 24 hours a day. Proper confinement means humane confinement. Thus, although confinement sounds like incarceration, nothing could be further from the truth. For the purpose of this note, proper confinement simply means responsible supervision.).

109 *See id.* at 1465 (explaining that the Georgia dog statute has significant criminal penalties for serious violations, including fines ranging from $5,000 to $10,000 and possible imprisonment for one to ten years).

VI. APPENDIX[110]

IRONDALE CODE ORDIN. (ALA.) § 3-90 (1997).

Sec. 3-90. Pit bulls.

(a) Prohibited. It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the city:

(1) Any Pit bull dog; provided, that pit bull dogs registered with the city on the date of publication of this section may be kept within the city subject to the standards and requirements set forth in subsection (b) of this section. "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 bulls, pit bull dogs, or pit bull terriers;

f. Any dog which has the appearance and characteristics of being predominantly of the breeds *bull* (emphasis added) 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 those breeds.

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

(b) Keeping of registered pit bulls. The provisions of subsection (a) of this section are not applicable to owners, keepers or harborers of pit bull dogs registered with the city on the effective date of this section. 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

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[110] For links to these and other dog control statutes, *see* Pit Bull Rescue Central, *Breed Specific Legislation*, http://www.pbrc.net/breedspecific.html (accessed Apr. 4, 2004).

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 buildings 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 section 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 section provide proof to the city clerk of public liability insurance in a single incident of fifty thousand dollars ($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 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 section provide to the city clerk two (2) 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 city clerk as required hereinafter:

a. The removal from the city or death of a registered pit bull dog;

b. The birth or 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 limits.

(8) Sale or transfer of ownership prohibited. 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 of 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) weeks 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 subsection (a) of the section 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 to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section shall be subject to immediate seizure and, impoundment. In addition, failure to comply will result in the revocation of the license of such animals resulting in the immediate removal of the animal from the city.

(12) Violations and penalties. Any person violating or permitting the violating of any provision of this section shall, upon conviction in the municipal court, be fined a sum of not less than two hundred dollars ($200.00) and not more than five hundred dollars ($500.00). In addition to the fine imposed, the court may sentence the defendant to imprisonment 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 owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

DENVER CODE ORDIN. (COLO.) § 8-55 (1989).

Sec. 8-55. Pit bulls prohibited.

(a) It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the city any pit bulls.

(b) Definitions.

(1) An 'owner,' for purposes of this chapter, is defined as any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells an animal.

(2) A 'pit bull,' for purposes of this chapter, is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United

Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the clerk and recorder, ex officio clerk of the City and County of Denver, at City Clerk Filing No. 89457.

(3) A 'secure temporary enclosure,' for purposes of this chapter, is a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a 'door' for removal of the pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner, that the pit bull cannot exit the enclosure on its own.

(c) Exceptions. The prohibition in subsection (a) of this section shall not apply in the following enumerated circumstances. Failure by the owner to comply and remain in compliance with all of the terms of any applicable exception shall subject the pit bull to immediate impoundment and disposal pursuant to subsection (e) of this section, and shall operate to prevent the owner from asserting such exception as a defense in any prosecution under subsection (a).

(1) The owner of a pit bull who has applied for and received a dog license for such pit bull pursuant to section 8-61 at the Denver Municipal Animal Shelter on or before the date of publication of the ordinance enacting this section 8-55 [August 7, 1989], who has applied for and received a pit bull license in accordance with subsection (d) of this section, and who maintains the pit bull at all times in compliance with the put bull (sic) license requirements of subsection (d) of this section and all other applicable requirements of this chapter, may keep a pit bull within the city.

(2) The city's municipal animal shelter may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this chapter.

(3) Any humane society operating an animal shelter which is registered and licensed by the city may temporarily hold any pit bull that it has received or otherwise recovered, but only for so long as it takes to contact the city's municipal animal shelter and either turn the pit bull over to the municipal animal shelter employees or receive permission to destroy or have destroyed the pit bull pursuant to the provisions of subsection (e).

(4) A person may temporarily transport into and hold in the city a pit bull only for the purpose of showing such pit bull in a place of public exhibition, contest or show sponsored by a dog club association or similar organization. However, the sponsor of the exhibition, contest, or show must receive written permission from the manager, must obtain any other permits or licenses required by city ordinance, and must provide protective measures adequate to prevent pit bulls from escaping or injuring the public. The person who transports and holds a pit bull for showing shall, at all times when the pit bull is being transported within the city to and from the place of exhibition, contest, or show, keep the pit bull confined in a 'secure temporary enclosure' as defined in subdivision (b)(3).

(5) Except as provided in subdivision (4), above, the owner of a pit bull may temporarily transport through the city a pit bull only if such owner has obtained a valid transport permit from the manager. Upon request, the manager shall issue such permits only upon a showing by the owner that the pit bull is being transported either from a point outside the city to a destination outside the city, or from a point outside the city to an airport, train station or bus station within the city. In the latter case, such owner must provide evidence of an intent to send or take the pit bull outside of the city by producing an airline, train or bus ticket, or other equivalent document, showing a departure time within six (6) hours of the time of the transport. At all times when the pit bull is being transported within the city, it must be kept confined in a 'secure temporary enclosure' as defined in subdivision (b)(3) of this section. In all cases before issuing a transport permit, the manager must find that the transport would not constitute an unnecessary or undue danger to the public health, welfare or safety, and shall not issue the permit where the manager cannot so find. All transport permits issued shall only be valid for the time, date and pit bull specified on the permit, and shall not be construed to permit any activity otherwise prohibited.

(d) The owner of any pit bull which had been licensed pursuant to section 8-61 on or before the date of publication of the ordinance enacting this section 8- 55 (Ordinance No. 404, Series of 1989) shall be allowed to keep such pit bull within the city upon compliance with the terms of the exception contained in subdivision (c)(1) of this section only if the owner applies for and receives an annual pit bull license on or before January 1, 1990. As a condition of issuance of a pit bull license, the owner shall at the time of application comply with or otherwise provide sufficient evidence that the owner is in compliance with all of the following regulations:

(1) The owner of the pit bull shall provide proof of rabies vaccination and shall pay the annual pit bull license fee of fifty dollars ($50.00).

(2) The owner of the pit bull shall keep current the license for such pit bull through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee. A pit bull license tag will be issued to the owner at the time of issuance of the license. Such license tag shall be attached to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the pit bull for which the license was issued. If the pit bull tag is lost or destroyed, a duplicate tag may be issued upon the payment of a two-dollar fee.

(3) The owner must be at least twenty-one (21) years of age as of January 1, 1990.

(4) The owner shall present to the manager proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars ($100,000.00), covering any damage or injury which may be caused by a pit bull during the twelve-month period covered by

the pit bull license. The policy shall contain a provision requiring the insurance company to provide written notice to the manager not less than fifteen (15) days prior to any cancellation, termination, or expiration of the policy.

(5) The owner shall, at the owner's own expense, have the pit bull spayed or neutered and shall present to the manager documentary proof from a licensed veterinarian that this sterilization has been performed.

(6) The owner shall bring the pit bull to the Denver Municipal Animal Shelter where a person authorized by the manager shall cause a registration number assigned by the department to be tattooed or otherwise marked on the pit bull. The manager shall maintain a file containing the registration numbers and names of the pit bull and the names and addresses of the owners. The owner shall notify the manager of any change of address.

(7) At all times when a pit bull is at the property of the owner, the owner shall keep the pit bull 'confined,' as that term is defined in subsection 8-52(b). At all times when a pit bull is away from the property of the owner, the owner shall keep the pit bull either securely leashed and muzzled or in a 'secure temporary enclosure,' as that term is defined in subdivision (b)(3) of this section.

(8) The owner shall not sell or otherwise transfer the pit bull to any person except a member of the owner's immediate family who will then become the owner and will be subject to all of the provisions of this section. The owner shall notify the manager within five (5) days in the event that the pit bull is lost, stolen, dies, or has a litter. In the event of a litter, the owner must deliver the puppies to the Denver Municipal Animal Shelter for destruction or permanently remove the puppies from Denver and provide sufficient evidence of such removal by the time the puppies are weaned, but in no event shall the owner be allowed to keep in Denver a pit bull puppy born after the date of publication of Ordinance No. 404, Series 1989, that is more than eight (8) weeks old. Any pit bull puppies kept contrary to the provisions of this subdivision are subject to immediate impoundment and disposal pursuant to subsection (e) of this section.

(9) The owner shall have posted at each possible entrance to the owner's property where the pit bull is kept a conspicuous and clearly legible pit bull sign. Such pit bull sign must be at least eight (8) inches by ten (10) inches in rectangular dimensions and shall contain only the words 'PIT BULL DOG' in lettering not less than two (2) inches in height.

(e) Notwithstanding the provisions of Article VIII of this chapter, the manager is authorized to immediately impound any pit bull found in the City and County of Denver which does not fall within the exceptions listed in subsection (c), above, and the municipal animal shelter may house or dispose of such pit bull in such manner as the manager may deem appropriate, except as the procedures in subsection (f), below, otherwise require.

(f) When the manager has impounded any pit bull dog pursuant to this section, and the owner of such dog disputes the classification of such dog as a pit bull, the owner of such dog may file a written petition with the manager for a hearing concerning such classification no later than seven (7) days after impoundment. Such petition shall include the name and address, including mailing address, of the petitioner. The manager will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing. Where no written request from the owner for a hearing is received by the manager within seven (7) days of impoundment, the pit bull shall be destroyed. The hearing, if any, will be held before the manager or a hearing officer designated by the manager. Any facts which the petitioners wishes to be considered shall be submitted under oath or affirmation either in writing or orally at the hearing. The manager or hearing officer shall make a final determination whether the dog is a pit bull as defined in subsection (b)(2) of this section. Such final determination shall be considered a final order of the manager subject to review under Rule 106(a)(4) of the state rules of civil procedure. If the dog is found to be a pit bull, it shall be destroyed, unless the owner produces evidence deemed sufficient by the manager that the pit bull is to be permanently taken out of Denver and the owner pays the cost of impoundment. If the dog is found not to be a pit bull, the dog shall be released to the owner. The procedures in this subsection (f) shall not apply and the owner is not entitled to such a hearing with respect to any dog which was impounded as the immediate result of an attack or bite as defined in section 8-51. In those instances, the dog shall be handled and the procedures governed by the provisions of article VIII of this chapter.

MIAMI-DADE COUNTY CODE ORDIN. (FLA.) §§ 5-17-5-17.6 (1989).

Sec. 5-17. Legislative intent.

This article is intended to utilize the authority and powers of Miami-Dade County in order to secure for the citizens of this County the protection of their health, safety and welfare. It is intended to be applicable to dogs which are commonly referred to as "pit bulls" and which are defined herein. This article is designed to regulate these pit bull dogs and to ensure responsible handling by their owners through confinement, registration, and liability insurance. The unique history, nature and characteristics of pit bull dogs have been determined to require the special regulations and provisions contained within this article which the County Commission hereby finds reasonable and necessary.

Sec. 5-17.1. Definition and identification of a *pit bull* dog.

(a) The term "pit bull dog" as used within this article shall refer to any dog which exhibits those distinguishing characteristics which:

(1) Substantially conform to the standards established by the American Kennel Club for American Staffordshire Terriers or Staffordshire Bull Terriers; or

(2) Substantially conform to the standards established by the United Kennel Club for American Pit Bull Terriers.

(b) The Standards of the American Kennel Club and the United Kennel Club referred to in subsection (a) above, are attached hereto and incorporated herein by reference as "Exhibit A" and shall remain on file with the Animal Services Division of the Public Works Department of Miami-Dade County.

(c) Technical deficiencies in the dogs' conformance to the standards described in subsection (b) shall not be construed to indicate that the subject dog is not a "pit bull dog" under this article.

(d) Testimony by a veterinarian, zoologist, animal behaviorist, or animal control officer that a particular dog exhibits distinguishing physical characteristics of a pit bull shall establish a rebuttable presumption that the dog is a pit bull.

Sec. 5-17.2. Confinement of pit bull dogs.

(a) Because of the pit bull dog's inbred propensity to attack other animals, and because of the danger posed to humans and animals alike by a pit bull dog when running loose or while running together in a pack, pit bull dogs must at all times be securely confined indoors, or confined in a securely and totally enclosed and locked pen, with either a top or with all four (4) sides at least six (6) feet high, and with a conspicuous sign displaying the words "Dangerous Dog."

(b) At any time that a pit bull dog is not confined as required in subsection (a) above, the dog shall be muzzled in such a manner as to prevent it from biting or injuring any person or animal, and kept on a leash with the owner or custodian in attendance. Provided, however, that no pit bull dog may be walked within fifty (50) feet of any public school ground nor enter onto such school ground.

(c) An exception to these confinement requirements is hereby provided for any pit bull dog in attendance at, and participating in, any lawful dog show, contest or exhibition sponsored by a dog club, association, society or similar organization.

(d) An exception to these confinement requirements is hereby provided for any pit bull dog when the dog is actually engaged in the sport of hunting in an authorized area and supervised by a competent person.

Sec. 5-17.3. Evidence of financial responsibility required to be maintained by owners of pit bull dogs.

In order to protect the public and to afford relief from the severe harm and injury which is likely to result from a pit bull dog attack, every owner of a pit bull dog shall maintain and be able to provide evidence of the owner's financial ability to respond in damages up to and including the amount of fifty thousand dollars ($50,000.00) for bodily injury to or death of any person or damage to property which may result from the ownership, keeping or maintenance of such dog.

Proof of ability to respond in damages shall be given by filing with the Animal Control Office a certificate of insurance from an insurance company authorized to do business in the State, stating that the owner is and will be insured against liability for such damages; or by posting with the Animal Control Office a surety bond conditioned upon the payment of such damages during the period of such registration; or by posting a personal bond secured by a mortgage in real property or security interest in personal property; or a sworn statement of the owner of his/her financial ability to respond in damages up to and including the amount of fifty thousand dollars ($50,000.00).

Sec. 5-17.4. Registration of pit bull dogs.

Every owner of a pit bull dog in Miami-Dade County shall register the dog with the Animal Services Division of the Public Works Department of the County. The registration shall include the following: Name, address and telephone number of the dog's owner; the address where the dog is harbored, if different from the owner's address; a complete identification of the dog including the dog's sex, color and any other distinguishing physical characteristics; a color photograph of the dog; a description of the method of compliance with the confinement requirements; proof of the liability insurance or other evidence of financial responsibility required pursuant to this article; and a registration fee.

Sec. 5-17.5. Enforcement.

It shall be the duty and responsibility of all Miami-Dade County Animal Control Officers to enforce the provisions of this article.

Sec. 5-17.6. Time for compliance.

(a) All persons subject to this article shall have ninety (90) days from the effective date of this section [April 14, 1989] to comply with all confinement and registration and requirements. The provisions of Section 5-17.3, entitled "Liability Insurance or Other Evidence of Financial Responsibility Required to be Maintained by Owner of Pit Bull Dogs," shall be effective on January, 1, 1990.

(b) No pit bull dogs may be sold, purchased, obtained, brought into Miami-Dade County, or otherwise acquired by residents of Miami-Dade County anytime after the passage of ninety (90) days after the effective date of Ordinance Number 89-22. No such newly-acquired pit bull dogs may be kept, maintained, or otherwise harbored within Miami-Dade County, and each day any such newly-acquired pit bull is so kept, maintained, or harbored shall constitute a separate violation of this section.

(1) Violation of subsection (b) may result in the issuance of a civil violation notice, and

(2) Humane destruction of the pit bull dog by order of a court of competent jurisdiction. The County Manager or his designee may apply to the court for such order pursuant to this paragraph.

SOUTH BEND MUN. CODE (IND.) § 5-27 (1996).

Sec. 5-27. Licensing.

(a) A person shall not own an American Pit Bull Terrier, or any other dangerous animal for more than forty-eight (48) hours unless such animal is licensed under this article or an application for licensing of such animal under this article is pending. Persons who may disagree with his or her pet being determined to be a dangerous animal must file an appeal within said forty-eight (48) hours of receiving notification of that designation.

(b) The owner of an American Pit Bull Terrier, or other dangerous animal shall apply to the City Controller's office or the City's duly authorized third party for the licensing of said animal. The application shall be on a form provided by the City Controller's office or the City's duly authorized third party and shall be accompanied by all of the following:

(1) Verification of the owner's name and current address by way of providing a photostatic copy of his or her driver's license.

(2) Proof that the applicant owns said animal, and is eighteen (18) years of age or older.

(3) One (1) copy of a registration certificate issued for said animal by the A.K.C. and/or A.D.B.A., if available and applicable.

(4) One (1) copy of the current immunization and health records for said animal.

(5) Proof that the applicant has insurance coverage of not less than three hundred thousand dollars ($300,000.00) for any injury, damage or loss caused by said animal.

(6) Two (2) photographs of said animal taken not more than one (1) month before the date of the application. One (1) photograph shall be a front view of the animal and one (1) photograph shall be a side view of said animal.

(7) If said animal was previously licensed under this chapter, the name and address of any previous owner and the number of the most recent license assigned to said animal.

(8) A licensing fee of fifty dollars ($50.00).

(c) If the applicant provides all the information required by subsection (b), the animal shall be licensed if:

(1) The applicant agrees to inform the City Controller's office or its duly authorized agent of any notice or cancellation of the required liability insurance within forty-eight (48) hours of such notice or cancellation.

(2) The applicant agrees to inform the City Controller's office or its duly authorized agent of any change of address, or change of ownership of said animal.

(3) The applicant meets the other requirements under this article for licensing.

(d) Upon licensing of an animal not previously licensed under this article, the City Controller's office or the City's duly authorized third

party shall assign a specific license number of ownership to said animal, without duplication, which number shall remain the same for the life of the animal.

This number may be tattooed on the inside and through the skin of a rear leg of the animal the initial time said animal is licensed under this article. No further tattoos shall be required upon renewal of the license.

Any tattooing shall be done by a veterinarian and shall be made by the use of permanent tattoo ink. The tattoo shall be not less than one (1) inch long and not less than one-quarter (1/4) inch high. The City Controller's office or the City's duly authorized third party shall issue to the owner or agent of said animal a dangerous dog license in written form which includes the number of the dangerous dog license type, dangerous dog license date of issuance and date of expiration.

A durable tag stamped with the license or permit number and year of issuance shall be given along with a sign stating "Beware Dangerous Animal" which must be prominently and conspicuously displayed by the owner of said animal where said animal is harbored and clearly visible from the street or alley immediately adjacent thereto.

As an alternative to the tattooing requirements described herein, the owner may elect to have the animal permanently identified by a microchip with such identification being done at the owner's expense.

(e) The City Controller's office and/or the City's duly authorized third party shall keep a permanent record of the name and address of the owner or agent of each animal licensed under this article and the number of ownership, name, breed, sex, color, and two (2) photographs of each animal so licensed. The City Controller's office and/or the City's duly authorized third party shall furnish to any law enforcement agency a true copy of these records upon request.

(f) The City Controller's Office or the City's duly authorized third party shall keep the licensing records for animals licensed under this article separate from the records for all other breeds of animals.

(g) All licenses issued under this article shall expire January thirty-first of each year.

TOPEKA CODE ORDIN. (KAN.) §§ 18-141-18-148 (1981).

Sec. 18-141. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Pit bull dog means and includes:

(1) The Staffordshire bull terrier breed of dogs;

(2) The American Staffordshire terrier breed of dogs;

(3) The American pit bull terrier breed of dogs;

(4) Dogs which have the appearance and characteristics of being predominantly of the breeds of dogs known as Staffordshire bull terrier, American pit bull terrier or American Staffordshire terrier.

The registration of a dog with a kennel or dog association at any time as a pit bull or any of the dogs listed under this definition shall constitute prima facie evidence the animal is regulated by this division.

Sec. 18-142. Exemptions.

The provisions of this division shall not apply to the transportation of pit bull dogs through this city when such transporter has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof.

Sec. 18-143. Failure to comply with division; penalty.

It shall be unlawful for the owner, keeper or harborer of a pit bull dog to fail to comply with the requirements and conditions set forth in this division. Any dog found to be the subject of a violation of this division shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal and the permit providing for the keeping of such animal, resulting in the immediate removal of the animal from the city.

Sec. 18-144. Prohibition.

Except as provided in this division, no person shall own, keep or harbor any pit bull dog in the city.

Sec. 18-145. Penalty for violation of division.

Any person violating or permitting the violation of any provision of this division shall, upon conviction in the municipal court, be fined a sum not less than $200.00 and not more than $499.00. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 179 days. In addition, the court shall order the registration and permit for 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 owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this division continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this division shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this division.

Sec. 18-146. Costs to be paid by responsible persons.

Any reasonable costs incurred by the animal control officer in seizing, impounding, confining or disposing of any pit bull dog, pursuant to the provisions of section 18-147, 18-148, 18-171 or 18-175, shall be charged against the owner, keeper or harborer of such animal and shall be collected by the city treasurer.

Sec. 18-147. Notice of keeping dangerous animals.

Upon the written complaint of any person that a person owns or is keeping or harboring a pit bull dog in violation of this division in the city, the animal control officer, hereinafter ACO, or his authorized designee shall cause the matter to be investigated; and if, after investigation, the facts indicate that such person named in the complaint is in

fact the owner or is keeping or harboring any such pit bull dog in the city, the ACO shall forthwith send written notice to such person requiring such person to safely remove the dog from the city within five days of the date of the notice. Notice as provided in this section shall not be required where such pit bull dog has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the ACO shall cause the dog to be immediately seized and impounded, according to the provisions of section 18-148, or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

Sec. 18-148. Seizure and impounding.

(a) The ACO or his authorized designee shall forthwith cause to be seized and impounded any pit bull dog where the person owning, keeping or harboring such animal has failed to comply with the notice sent pursuant to section 18-147. Upon its seizure and impoundment, the animal shall be delivered to a place of confinement, which may be with any organization which is authorized by law to accept, own, keep or harbor pit bull dogs.

(b) If, during the course of seizing and impounding a pit bull dog, the animal poses a risk of serious physical harm or death to any person, such person when authorized by the ACO may render the dog immobile by means of tranquilizers or other safe drugs; or, if that is not safely possible, then the animal may be killed.

IOLA CODE ORDIN. (KAN.) §§ 10(181)-(184) (1988).

Sec. 10-181. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Pit bull dog means as follows:

(1) The bull terrier breed of dog;

(2) Staffordshire bull terrier breed of dog;

(3) The American pit bull terrier breed of dog;

(4) The American Staffordshire terrier breed of dog; and

(5) Dogs of mixed breed or of other breeds than listed in this definition, which breed or mixed breed, is known as pit bulls, pit bull dogs or pit bull terriers, or any dog which has the appearance and characteristics of being predominantly of any of the breeds listed under subsection (1), (2) or (3) of this definition, or a combination of any of the breeds listed under subsection (1), (2) or (3) of this definition.

Sec. 10-182. Findings and determinations.

The governing body of the city finds and determines that:

(1) Instances of attacks by pit bull dogs have occurred upon members of other communities.

(2) As a breed of dogs, all pit bull dogs are inherently dangerous.

(3) The possession of pit bull dogs within the city poses a significant threat to the public's health, safety and welfare.

(4) Protective measures by pit bull dog owners are inadequate to protect the public from attacks by these animals.

Sec. 10-183. Penalty for violation of division.

Violations of this division are a class B offense. In addition, the court shall order the license 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 may find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. In addition to the foregoing penalties, any person who violates this division shall pay all expenses, including shelter, food, handling, veterinary care, witness fees and court costs necessitated by the enforcement of this article.

Sec. 10-184. Requirements for keeping.

Pit bull dogs shall only be kept and allowed within the city limits of the city, upon the following standards and requirements being met:

(1) 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 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 pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in subsection (1) of this section. 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. 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 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.

(Code 1988, § 2-304)

MANHATTAN CODE ORDIN. (KAN.) §§ 6(21)-(25) (1973).

Sec. 6-25. Dangerous dogs.

(a) Any person who keeps or harbors a dangerous dog shall keep such dog confined, except as set forth hereinafter. "Confined," as that term is used in this section, shall mean such dog is securely kept indoors or in a securely enclosed and locked pen or dog-run area. Said pen or run must be locked with a key or combination lock whenever such dog or dogs are within the structure. Said pen or dog-run area must have sides six feet high or be secured over the top. If the pen or dog-run area has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot deep.

(b) Any person keeping or harboring a dangerous dog, at anytime said dog is not confined, shall ensure such dog is securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length.

(c) Any person keeping or harboring a dangerous dog shall display, in a prominent place on the premises where the dog is kept, a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign shall be posted on the pen or run of such animal.

(d) As used in this section, "dangerous dog" shall mean and include:

(1) Any dog which is known to his keeper or harborer, or reasonably should be known to his keeper or harborer, to have a propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals. It is hereby declared to be the policy of this city that keepers and harborers of dogs that are of a size and breed that allow the animal to be capable of inflicting life threatening injuries upon human beings, are hereby held to a very high standard of care regarding their knowledge of such propensity, tendency or disposition as to their animal. The court, in determining whether or not a keeper or harborer of such an animal reasonably should know about such propensities, tendencies or dispositions shall apply such very high standard. Examples of breeds to which this standard applies include, but are not limited to, the following, to-wit:

a. The Staffordshire Bull Terrier breed of dogs;

b. The American Staffordshire Terrier breed of dogs;

c. The American Pit Bull Terrier breed of dogs;

d. The Rottweiler breed of dogs;

e. The Chow breed of dogs;

f. The Doberman Pinscher breed of dogs; or

Any dog that has the appearance and characteristics of being predominantly of the breeds of dogs known as Staffordshire Bull Terrier, American Staffordshire Terrier, American Pit Bull Terrier, Rottweiler, Chow or Doberman Pinscher.

(2) Any dog which has attacked a human being or domestic animal without provocation; or

(3) Any dog kept or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting; or

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

(e) In addition to any penalties the court may prescribe for violation of this section, if the court finds, after notice to the keeper or harborer and an opportunity for hearing, that such dangerous dog represents a continuing threat of serious harm to human beings or other domestic animals, the court may order such animal destroyed.

MORGAN CITY CODE ORDIN. (LA.) § 18-64 (1999).

Sec. 18-64. Dangerous and vicious animals and dogs.

(a) Keeping prohibited. No owner shall keep or permit to be kept within the corporate limits of the city any fierce, savage, dangerous, wild or vicious animal or dog other than in accordance with the provisions of this section.

(b) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Animal warden means any person authorized by the city to enforce the provisions of this section and, without limitation, shall include all members of the police department and all officers and employees of the parish humane society.

Enclosure means a fence or structure at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper of the animal, such as tethering. Such enclosures shall be securely closed and locked at all times and shall have secure sides and a secure top attached to its sides. Such structure shall further have a secure bottom or floor attached to the sides or alternatively, have the sides embedded no less than 30 inches into the ground. As an alternative, an owner may elect to provide an enclosure consisting of a six-foot-high chain-link fence securely embedded no less than 30 inches into the ground with an inverted 45-degree-angle attachment mounted along the top of the fence with the standard three-strand barbed wire protection.

Enclosure for a pit bull means a fence or structure of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper of the animal, such as tethering. Such enclosures shall be securely closed and locked at all times and shall have secure sides and a secure top attached to its sides. Such structure shall further have a secure bottom or floor attached to the sides or alternatively, have the sides embedded no less than 30 inches into the ground.

Enclosure for a rottweiler dog means a fence or structure of at least six feet in height forming or causing an enclosure suitable to prevent the entry of young children and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper of the animal, such as tethering. Such enclosures shall be securely closed and locked at all times and shall have secure sides which are flush with the ground at all points.

Impounded means taken into the custody of the city or the parish council or the parish humane society.

Vicious dog means:

(1) Any dog that when unprovoked bites or attacks a human being or other animal either on public or private property, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks or public grounds or places of this city;

(2) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals;

(3) Any dog which attacks a human being or domestic animal without provocation;

(4) Any dog owned or harbored primarily or in part for the purpose of dogfighting or any dog trained for dogfighting;

(5) Any pit bull terrier dog which, for purposes of this section, shall be defined as the American Pit Bull Terrier, the American Staffordshire Terrier, Staffordshire Bull Terrier, the Bull Terrier, or any other dog of mixed breed which contains as an element of its breeding any of the aforesaid mentioned breeds of dog and, which is, due to its size, color or conformity, identifiable by a veterinarian licensed to practice veterinary medicine by the state as being partially of any of the aforementioned breeds of dog; or

(6) That certain breed of dog defined as a Rottweiler, or any other dog of mixed breed which contains an element of its breeding, the Rottweiler breed, which is, due to size, color or conformity, identifiable by a veterinarian licensed to practice veterinary medicine by the state as being partially of the Rottweiler breed of dog.

The term "vicious dog" does not include either of the following:

(1) A dog that has killed or caused serious injury or has attacked or injured any person while that person was committing or attempting to commit a trespass or other criminal offense on the property of the owner or keeper of the dog.

(2) A police dog that has killed or caused injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(c) Requirements for registration and harboring.

(1) No vicious dog shall be licensed by the city or have an existing license renewed unless the owner or keeper of the vicious dog shall meet the following requirements:

a. The owner or keeper of a pit bull dog or rottweiler dog shall present to the police department proof that the owner or keeper has procured liability insurance in the amount of at least $100,000.00 covering any damage or injury which may be caused by such vicious dog during the period for which licensing is sought. Such policy of insurance shall contain a provision requiring that the city be named as an additional insured or such other provisions as will require that the insurer notify the city in writing no less than ten days prior to any cancellation, termination or expiration of coverage.

b. The owner or keeper of a pit bull dog shall have the registration number assigned by the city to the vicious dog tattooed inside the ear or the inner rear flank by a licensed veterinarian. For purpose of this provision, the term "tattoo" shall mean any permanent numbering of a vicious dog by means of indelible or permanent ink or any other permanent, acceptable method of tattooing.

c. The owner or keeper of every vicious dog shall display in a prominent place on the premises on which the dog is kept a sign easily readable by members of the general public and fairly intelligible to young children, standing without the boundaries of those premises, warning that there is a vicious dog on the premises. A similar sign shall also be posted on the pen, kennel or other structure or enclosure in which the dog is housed or confined.

(2) Prior to the issuance or renewal of a license for a vicious dog, its owner or keeper shall sign a statement attesting under oath that:

a. The owner or keeper of a pit bull dog shall maintain and shall not voluntarily cancel the liability insurance required by this section during the period for which licensing is sought, unless the owner or keeper shall cease to own or keep the vicious dog prior to the expiration of the license;

b. The owner or keeper shall, on or prior to the effective date of the license for which application is being made, have a suitable enclosure as required by the provisions of this section for the harboring of the vicious dog on the premises where the vicious dog will be kept or maintained;

c. The owner or keeper shall notify the police department within 24 hours whenever a vicious dog is on the loose, is unconfined, has attacked another animal, or has attacked a human, has died, has been sold or given away, or has been relocated for keeping and maintenance to another premises within the corporate limits of this city. If a vicious dog has been sold or given away to someone who is a resident of this city, the owner or keeper shall also provide the police department with the name, address and telephone number of the new owner of the vicious dog.

(3) Prior to the issuance or renewal of any license for a pit bull dog, its owner shall submit to the police department a minimum of two color photographs of the dog clearly depicting its color, approximate size and facial characteristics.

(4) It shall be unlawful for any person convicted of a felony to register, own, possess, keep or harbor a vicious dog; any vicious dog found in the possession of a convicted felon shall be seized and impounded immediately by the animal warden, such dog to be disposed of in accordance with law.

(d) Control of vicious dogs.

(1) All vicious dogs shall be confined in an enclosure which meets the requirements set forth under the provisions of this section. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have such a locked enclosure.

(2) It shall be unlawful for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or keeper or outside of the enclosure unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog, or to sell or give away the vicious dog, or to comply with the commands or directions of the animal warden with respect to the vicious dog or for the dog to be exercised in accordance with the provisions of this section. Whenever the vicious dog is allowed outside of the owner's or keeper's dwelling or outside of its enclosure, the dog shall be securely muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals, and the dog shall be restrained with a choke collar with a leather, nylon or chain leash having a minimum tensile strength of 300 pounds and not exceeding three feet in length. Further, the dog shall be kept under the direct control and supervision of its owner or keeper at all times who shall always be of adequate physical size and maturity to maintain full control of the dog. The requirements of this section for the maintenance of physical control over the dog shall not be satisfied by the mere chaining, roping, leashing or similar restraining of the animal to inanimate objects such as stakes, trees, posts, buildings or lines.

(3) The owner or keeper of any dog which, subsequent to the issuance of a license by the city, is found to have exhibited any of the characteristics of viciousness set forth in the definition of vicious dog in subsection (b)(1) of this section shall:

a. Within 15 days of the finding of viciousness provide an enclosure for the dog;

Within five days of the finding of viciousness:

1. Submit to the police department proof of the purchase of the liability insurance coverage required under the provisions of subsection (c)(1)a. of this section;

2. Have the animal tattooed in accordance with the provisions of subsection (c)(1)b. of this section;

3. Display the warning sign or signs required under the provisions of subsection (c)(1)c. of this section;

4. Sign the sworn statement required under the provisions of subsection (c)(2) of this section; and

5. Submit to the police department the photographs of the animal required under the provisions of subsection (c)(3) of this section.

Any dog alleged to have committed a vicious act shall be confined in accordance with the provisions of subsection (d)(1) of this section and restrained in accordance with the provisions of subsection (d)(2) of this section pending the final determination of the viciousness of the dog by the police department as based upon the alleged incident. A dog determined to be vicious by the police department shall be similarly confined and restrained pending its owner's or keeper's compliance with the provisions of this subsection (d)(3).

(e) Reporting requirements.

(1) The owner or keeper of any dog, whether classified as vicious or not, shall, within 24 hours of occurrence, report to the police department any attack or threatened attack by his dog upon any human being. Such report shall contain, at minimum, the:

a. Owner's name and address;

b. Name and license number of the dog;

c. Name and address, if known, of the victim;

d. Time and location of the attack;

e. Date on which the dog was last vaccinated against rabies; and

f. Name and address of the veterinarian who performed the vaccination.

Unless previously submitted, if the dog is loose or otherwise unconfined, the owner shall further submit to the police department, within the 24-hour period, two color photographs of the dog clearly depicting its color and approximate size.

(2) a. Within 24 hours of occurrence, the owners or keepers of any vicious dog shall submit the following reports to the police department:

1. Any attack by the dog on any person or animal or any property damage caused by the dog.

2. The death or removal from the city of the vicious dog.

3. The new address at which a vicious dog will be kept should its owner or keeper move within the corporate limits of the city or sell, give or transfer the dog to another resident of the city.

b. Newly acquired pit bulls, including newly born puppies, shall be registered with the police department not later than 72 hours after acquisition.

c. Such reports shall include the name and address of the dog's owner or keeper, the name and registration number of the dog, the date of the occurrence and, where applicable, the name and address or owner of the animal attacked, the extent of injuries inflicted, a description of the property damage caused by the dog, the name and address of the dog's new owner, the address of the present owner's new residence and/or the date on which the dog was last vaccinated for rabies, and the name and address of the veterinarian who performed the vaccination.

(3) Physicians, veterinarians, nurses and all medical treatment facilities shall report orally, with a written subsequent report, to the chief of police each and every incident involving any attack by any dog on any person or animal and shall report all injuries, including but not

limited to the name and address of the victim and a description of all such injuries and the expectant treatment which may be required.

(f) Determination of a vicious dog; suspected dangerous dog may be impounded pending hearing.

(1) If the animal warden or a law enforcement officer has probable cause to believe that a dog is vicious, the animal warden or the chief of police, or their designated representative, shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared vicious. The animal warden or chief of police, or their designated representative, shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the dog that a hearing will be held, at which time the owner may have the opportunity to present evidence why the dog should not be declared vicious. The hearing shall be held promptly before the chief of police and the animal warden no less than five days nor more than ten days after service of notice upon the owner or keeper of the dog. The hearing shall be informal and shall be open to the public. A determination shall be based upon a preponderance of the evidence.

(2) After the hearing, the owner or keeper of the dog shall be notified in writing by the chief of police of the determination. If a determination is made that the dog is vicious, the owner or keeper shall comply with the provisions of this section in accordance with a time schedule established by the chief of police, but in no case more than ten days subsequent to the date of the determination. If the owner or keeper of the dog contests the determination, he may, within five days of such determination, bring a petition in the city court praying that the court conduct its own hearing on whether or not the dog should be declared vicious. After service of notice upon the animal warden or chief of police, the court shall conduct a hearing de novo and make its own determination as to viciousness. This hearing shall be conducted within seven days of the service of the notice upon the animal warden or chief of police. The issue shall be decided by the court upon the preponderance of the evidence. If the court rules the dog to be vicious, the court may establish a time schedule to ensure compliance with this section, but in no case more than 15 days subsequent to the date of the court's determination.

(3) The court may decide all issues for or against the owner or keeper of the dog regardless of the fact that the owner or keeper fails to appear at the hearing.

(4) The determination of the court shall be final and conclusive upon all parties thereto. However, the animal warden or chief of police, or their designated representative, shall have the right to declare a dog to be vicious for any additional actions of the dog.

(5) If the animal warden or a law enforcement officer has probable cause to believe that a dog in question is vicious and may pose a threat of serious harm to human beings or other domestic animals, the animal warden or law enforcement officer may seize and impound the

dog pending the hearings. The owner or keeper of the dog shall be liable to the city for the costs and expenses of keeping such dog.

(g) Liability of parents for damages caused by dog owned by underage person. If the owner or keeper of the vicious dog is an underage person, the parent or guardian of such an underage person shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the vicious dog.

BLACK JACK CODE ORDIN. (MO.) § 5-34 (1994) (REPEALED 2003) (§ 5-34 (2003) ELIMINATED BREED SPECIFIC LANGUAGE).

Sec. 5-34. Keeping of vicious dogs prohibited.

(a) It shall be unlawful to keep, harbor, own or in any way possess, other than as provided in section 5-34(b), within the corporate limits of the City of Black Jack, Missouri any vicious dog. "Vicious dog" is defined to mean:

(1) Any "pit bull" dog including the following classifications:

a. Staffordshire bull terrier breed of dog;

b. The American pit bull terrier breed of dog;

c. The American Staffordshire terrier breed of dog;

d. Any mixed breed of dog which contains, as an element of its breeding, genetic components of the breed of Staffordshire bull terrier, American Staffordshire terrier or American pit bull terrier sufficient to render the breed readily identifiable as partially of the breed of Staffordshire bull terrier, American Staffordshire terrier or American pit bull terrier;

e. Any dog which has the physical and/or behavioral appearance and characteristics of being predominantly of the breeds of Staffordshire terrier; and other breeds commonly known as pit bulls, pit bull dogs, or pit bull terriers, or combination of any of these breeds.

(2) Any "Akita" dog including the following classifications:

a. Japanese Akita breed of dog;

b. Akita Inu breed of dog;

c. Shiba Inu breed of dog;

d. Japanese Chin breed of dog;

e. Any mixed breed of dog which contains, as an element of its breeding, genetic components of the breed of Japanese Akita, Akita Inu, or Shiba Inu sufficient to render the breed readily identifiable as partially of the breed of Japanese Akita, Akita Inu, or Shiba Inu;

f. Any dog which has the physical and/or behavioral appearance and characteristics of being predominantly of the breeds of Japanese Akita, Akita Inu, or Shiba Inu.

(b) Pit bull dogs residing in the City of Black Jack on December 15, 1987, and Akita dogs residing in the City of Black Jack on the effective date of Ordinance No. 530 may be kept by their owners within the city, subject to the following standards:

(1) Such vicious dogs residing in the city on the dates specified above, respectively, must be registered with the office of the city clerk by the owners within ten (10) days of the effective date of this section.

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

(3) All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or enclosure, except when leashed and muzzled as above provided. Such pen, enclosure or structure must have secure sides and a secure top attached to the sides. All structures used to confine vicious dogs must be locked with a key, combination or electronic 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 vicious dogs must comply with all zoning and building regulations of the city, and must be of sufficient area adequately to house the dog. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. This subsection shall become effective ninety (90) days after the effective date of this section.

(4) No vicious 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.

(5) All owners, keepers or harborers of vicious dogs within the city shall within ten (10) days of the effective date of this section display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Vicious Dog." In addition, a similar sign is required to be posted on the enclosure or pen of such animal.

(6) All owners, keepers or harborers of vicious dogs must within ten (10) days of the effective date of this section provide proof to the office of the city clerk, of public liability insurance in a single incident amount of one hundred thousand dollars ($100,000.00) 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 office of the city clerk. An effective insurance policy with the coverage and in the amounts specified herein must be maintained by the owner, keeper or harborer at all times.

(7) All owners, keepers or harborers of registered vicious dogs registered with the office of the city clerk, must within ten (10) days of the effective date of this section provide to the office of the city clerk, two (2) color photographs (two (2) different poses) of the animal, clearly showing the color and approximate size of the animal.

(8) All owners, keepers or harborers of vicious dogs must within ten (10) days of the incident, report the following information in writing to the office of the city clerk as required hereinafter:

a. The removal from the city or death of a vicious dog;

b. The birth of offspring of a vicious dog;

c. The new address of a vicious dog owner, keeper or harborer, should the owner, keeper, or harborer move from one address within the corporate city limits to another address within the corporate city limits.

(9) No person shall sell, barter, give away or in any other way dispose of a vicious 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 vicious dog may sell, or otherwise dispose of a vicious dog or the offspring of such dog to persons who do not reside within the city.

(10) All offspring born of vicious dogs registered within the city must be removed from the city within six (6) weeks of the birth of such animal.

(c) There shall be an irrebuttable presumption that any dog registered with the city as a vicious dog or any of those breeds prohibited by this section is in fact a dog subject to the requirements of this section.

(d) It shall be unlawful for the owner, keeper or harborer of a vicious dog registered with the City of Black Jack to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment.

(e) An owner may transport, or cause to be transported, any vicious dog to the place of business of any doctor of veterinary medicine, duly licensed by the State of Missouri pursuant to Chapter 340 Revised Statutes of Missouri or its successor statutes, and any such doctor of veterinary medicine or his agents may keep such vicious dog in his place of business for the purpose of veterinary treatment, providing such vicious dog is transported to the place of business of the doctor of veterinary medicine, and maintained there, in accordance with the provisions of section 5-34(b).

(f) In the event the owner of a dog, which the city believes to be of the breed regulated by this section 5-34, disputes the identity of such dog as a member of the breed regulated by this section 5-34, the office of the city clerk may designate a veterinarian, licensed by the State of Missouri to practice veterinary medicine, to determine whether the dog is a member of the breed regulated by this section 5-34.

(g) Any person violating or permitting the violation of any provision of this section shall upon conviction in municipal court be fined a sum not less than two hundred dollars ($200.00) and not more than five hundred dollars ($500.00). In addition to the fine imposed the court may sentence the defendant to imprisonment for a period not to exceed thirty (30) days. In addition, the court shall order the registration of the subject vicious dog be revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city the municipal court judge may find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

FERGUSON CODE ORDIN. (MO.) § 6-20 (1996).

Sec. 6-20. Regulation of pit bull dogs.

(a) Unlawful to keep; exception. It shall be unlawful to keep, harbor, own, or in any way possess, within the corporate limits of the City of Ferguson, Missouri, any pit bull, provided that pit bull dogs residing in the city on the effective date of this section may be kept within the city subject to the standards and requirements herein set forth.

(b) Definition. Pit bull dog is defined to mean:

(1) Staffordshire bull terrier breed of dog;

(2) The American pit bull terrier breed of dog;

(3) The American Staffordshire terrier breed of dog;

(4) Any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire bull terrier, American Staffordshire terrier, or American pit bull terrier, as to be identifiable as partially of the breed of Staffordshire bull terrier, American Staffordshire terrier, or American pit bull terrier;

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

(c) Standards for keeping. Pit bull dogs residing in the city on the effective date of this section may be kept by their owners within the city, subject to the following standards:

(1) Pit bull dogs residing in the city on the effective date of this section must be registered with the city code enforcement director by the owner(s) within ten (10) days of the effective date of this section.

(2) No person shall permit a pit bull dog to go outside its enclosure 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 enclosure 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 enclosure or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(3) All pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or enclosure, except when leashed and muzzled as above provided. Such pen, enclosure, 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. 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.

(4) 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.

(5) All owners, keepers, or harborers of pit bull dogs within the city shall within ten (10) days of the effective date of this section display in a prominent place on their premises a sign easily readable by the public using the words, "Beware of Dog—Pit Bull." In addition, a similar sign is required to be posted on the enclosure or pen of such animal.

(6) All owners, keepers, or harborers of pit bull dogs must within ten (10) days of the effective date of this section provide proof to the city code enforcement director of public liability insurance in a single incident amount of one hundred thousand dollars ($100,000.00) for bodily injury to or death of any person(s) or for damage to property owned by any person(s) which may result from the ownership, 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 code enforcement director. An effective insurance policy with the coverage and in the amounts specified herein must be maintained by the owner, keeper, or harborer at all times.

(7) All owners, keepers, or harborers of registered pit bull dogs registered with the city code enforcement director must, within ten (10) days of the effective date of this section, provide to the city code enforcement director two (2) color photographs (two (2) different poses) of the animal clearly showing the color and approximate size of the animal.

(8) All owners, keepers, or harborers of pit bull dogs must, within ten (10) days of the incident, report the following information in writing to the city code enforcement director as required hereinafter:

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 from one address within the corporate city limits to another address within the corporate city limits.

(9) 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 pit bull dog or the offspring of such dog to persons who do not reside within the city.

(10) All offspring born of pit bull dogs registered with the city must be removed from the city within six (6) weeks of the birth of such animal.

(11) 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 this section is in fact a dog subject to the requirements of this section.

(d) Violations and penalties.

(1) It shall be unlawful for the owner, keeper, or harborer of a pit bull dog registered with the city to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment.

(2) Any person violating or permitting the violation of any provision of this section shall, upon conviction in municipal court, be subject to the fines and imprisonment established in section 1-15, general penalty, of this code. 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 judge may find the defendant/owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this section.

BUTLER CITY CODE (MO.) § 5-36 (1991).

Sec. 5-36. Pit bulls; vicious dogs.

(a) Keeping, etc., prohibited; exceptions. It shall be unlawful to keep, harbor, own or in any way possess or bring within the corporate limits of the city any pit bull dog or vicious dog, provided that such

dogs residing in the city on August 6, 1991, may be kept within the city subject to the standards and requirements herein set forth.

(b) Definitions. As used herein, the following terms shall be defined as follows:

(1) Pit bull dog means:

a. Staffordshire bull terrier breed of dog;

b. The American pit bull terrier breed of dog;

c. The American Staffordshire terrier breed of dog;

d. Any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire bull terrier, American Staffordshire terrier or American pit bull terrier as to be identifiable as partially of the breed of Staffordshire bull terrier, American Staffordshire terrier or American pit bull terrier;

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

(2) Vicious dog means:

a. 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

b. 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 section; or

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

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

(c) Standards for keeping pit bull dogs, vicious dogs. Pit bull dogs and vicious dogs presently residing in the city on August 6, 1991, may be kept by their owners within the city, subject to the following standards:

(1) Pit bull dogs and vicious dogs must be registered with the city animal control officer by the owners.

(2) No person shall permit a pit bull dog or vicious dog to go outside its enclosure 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 or vicious dog to be kept on a chain, rope or other type of leash outside its enclosure 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 and vicious dogs on a leash outside the animal's enclosure or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(3) All pit bull dogs and vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or enclosure, except

when leashed and muzzled as provided above. Such pen, enclosure or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs and vicious dogs must be locked with a key or combination lock when such animals are within the structure. The 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 or vicious 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.

(4) No pit bull dog or vicious 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.

(5) All owners, keepers or harborers of pit bull dogs and vicious dogs within the city shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Vicious Dog." In addition, a similar sign is required to be posted on the enclosure or pen of such animal.

(6) All owners, keepers or harborers of pit bull dogs and vicious dogs must provide proof to the animal control officer of public liability insurance in a single incident amount of one hundred thousand dollars ($100,000.00) for bodily injury to or death of any person or for damage to property owned by any person 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 animal control officer. An effective insurance policy with the coverage and in the amounts specified herein must be maintained by the owner, keeper or harborer at all times.

(7) All owners, keepers or harborers of registered pit bull dogs and vicious dogs registered with the city animal control officer must provide to the animal control officer two (2) color photographs (two (2) different poses) of the animal clearly showing the color and approximate size of the animal.

(8) All owners, keepers or harborers of pit bull dogs and vicious dogs shall, within ten (10) days of any of the following incidents, report the information in writing to the animal control officer:

a. The removal from the city or death of a pit bull dog or vicious dog;

b. The birth of offspring of a pit bull dog or vicious dog;

c. The new address of a pit bull dog or vicious dog owner if the owner moves from one address within the corporate city limits to another address within the corporate limits.

(9) No person shall sell, barter or in any other way dispose of a pit bull dog or vicious 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 or vicious dog may sell or otherwise dispose of a pit bull dog or vicious dog or the offspring of such dog to persons who do not reside within the city.

(10) All offspring born of pit bull dogs or vicious dogs registered with the city must be removed from the city within six (6) weeks of the birth of such animal.

(11) There shall be an irrebuttable presumption that any dog registered with the city as a pit bull dog or vicious dog, or any of those breeds prohibited by this section, is in fact a dog subject to the requirements of this section.

(12) It shall be unlawful for the owner, keeper or harborer of a pit bull dog or vicious dog registered with the city to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment.

OAK HARBOR MUN. CODE (WASH.) §§ 7.32.010-7.32.130 (1987).

Dangerous and Potentially Dangerous Dogs.

7.32.010 Title. The ordinance codified in this chapter shall be referred to as the dangerous and potentially dangerous dog ordinance.

7.32.020 Findings. The potential for harm from mishandling of potentially dangerous dogs such as pit bull terriers far outweighs the burden of added requirements imposed on owners for the keeping of such dogs.

7.32.030 Definitions. The following definitions shall apply throughout this chapter:

(1) "Dangerous dog" means any dog that, according to the records of the appropriate authority:

(a) Has inflicted severe injury on a human being without provocation on public or private property;

(b) Has killed a domestic animal without provocation while off the owner's property; or

(c) Has been previously found to be potentially dangerous, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

(3) "Potentially dangerous dog" means:

(a) 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.

(b) Any dog which attacks a human being or other domestic animal without provocation.

(c) Pit Bull Terrier. A pit bull terrier means 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.

(d) Any dog used or trained for dog fighting.

(4) "Proper enclosure" of a dangerous dog or a potentially dangerous dog means that while on the owner's or possessor's property, a dangerous dog shall be securely confined indoor or in a securely enclosed and locked pen or a structure suitable to prevent the entry of children under the age of 10 years and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and if the structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

7.32.040 Defense. It is a defense to the crimes established in OHMC 7.32.130 that the pit bull terrier is less than six months of age. The burden of proof and presentation of evidence is on the person claiming this defense.

7.32.050 Notice. The animal control officer shall give notice to the owner or possessor of dogs which he or she has determined to be a potentially dangerous dog or a dangerous dog as defined in OHMC 7.32.030(1) and (4).

7.32.060 Information. The animal control officer, police department and clerk's office shall maintain and provide information to the public concerning this chapter.

(1) Notice is not a prerequisite to proving knowledge but notice given to an owner shall be prima facie evidence that the owner had acted knowingly.

(2) Notice shall be served by personal service, by certified mail, return receipt requested, to the last known address of the owner, or by posting of the premises where the dog is being harbored, kept or maintained.

7.32.070 Dangerous dogs. In addition to the regulations imposed with regard to both potentially dangerous dogs and dangerous dogs, the following additional provisions shall apply to dangerous dogs:

(1) It is unlawful for an owner to have a dangerous dog in the city without a certificate of registration issued under this section. This section shall not apply to dogs used by law enforcement officials for police work.

(2) The animal control officer shall issue a certificate of registration to the owner of such dangerous dog if the owner presents to the animal control unit sufficient evidence of:

(a) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property.

(b) A surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form acceptable to the animal control authority in the sum of at least $50,000, payable to any person injured by the vicious dog; or

(c) A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of at least $50,000, insuring the owner for any personal injuries inflicted by the dangerous dog.

(d) The annual fee for registration shall be $25.00.

(e) Dogs shall not 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 of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

(f) Any dangerous dog shall be immediately confiscated by an animal control authority if the:

(i) Dog is not validly registered under OHMC 7.32.070(1);

(ii) Owner does not secure the liability insurance coverage required under OHMC 7.32.070(2)(c) within 30 days of bringing the dog into the city limits or after it being declared a dangerous dog;

(iii) Dog is not maintained in the proper enclosure;

(iv) Dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person. In addition, the owner shall be guilty of a gross misdemeanor punishable by a fine of up to $1,000 or a jail sentence of one year or both such fine and jail time.

7.32.080 Destruction of dangerous dogs and potentially dangerous dogs. Whenever the animal control officer comes into the possession of a potentially dangerous dog or dangerous dog he or she shall destroy it if not reclaimed by the owner and not sell or give it to another as a pet.

7.32.090 Civil damages.

(1) In addition to criminal penalties, the following civil damages shall be incurred by the owner of a potentially dangerous dog or dangerous dog:

(a) If a potentially dangerous dog or dangerous dog enters onto the property of another without permission, the owner of the potentially dangerous dog or dangerous dog shall be liable for all direct damages incurred as a result of such intrusion and for general damages, even if no special damages are proved, of a minimum of $250.00.

(b) If a potentially dangerous dog or dangerous dog menaces a person, the owner shall be liable for damages not to be less than $250.00.

(c) If a potentially dangerous dog or dangerous dog injures a person, the owner of the potentially dangerous dog or dangerous dog shall be liable for damages of three times all the medical expenses in addition to any other damages or relief the person injured is entitled to under law.

(2) The damage enumerated under subsection (1) of this section may be imposed as restitution requirements for criminal violations of this chapter; provided, that in no event may damages awarded as restitution exceed $5,000.

7.32.100 Nuisance. The harboring, keeping and maintaining of a potentially dangerous dog or dangerous dog contrary to this chapter is a public nuisance and is subject to abatement by judicial procedure or by a summary abatement in an emergency or life threatening situation. If summary removal of a dog occurs, the dog shall not be destroyed before a hearing can be held concerning the removal and destruction.

7.32.110 Construction.

(1) This chapter shall be construed liberally to effectuate the purpose for which it was intended.

(2) This chapter should not be construed so as to limit the power and authority granted under state law to police officers and animal control officers in the city of Oak Harbor.

(3) This chapter shall be codified as a new chapter under OHMC Title 7.

7.32.120 Appeal. A decision of the animal control officer may be appealed to the city supervisor under Chapter 1.24 OHMC as now in effect or hereafter amended.

7.32.130 Violation – Penalty.

(1) It is unlawful for any person to knowingly keep, maintain or possess a potentially dangerous dog or a dangerous dog within the city limits of Oak Harbor except in an enclosure as defined in OHMC 7.32.030(4).

(2) It is unlawful for anyone to allow a potentially dangerous dog or dangerous dog outside of a proper enclosure unless it is on a leash, muzzled and under physical control of a person over the age of 18 years.

(3) The penalty for violating this section shall be a fine not exceeding $1,000 or a jail sentence not exceeding one year in jail or both such fine and jail sentence.

(4) Each day of violation shall be a separate offense.

YAKIMA MUN. CODE (WASH.) § 6.18.020 (1987).

Keeping of pit bull dogs prohibited.

A. It is unlawful to keep, or harbor, own or in any way possess a pit bull dog within the city of Yakima. Violation of this section is a gross misdemeanor. The minimum fine for a violation of this section shall be two hundred fifty dollars for the first offense and five hundred dollars for a second or subsequent offense, which fine shall not be suspended or deferred. For purposes of this section, proof of a prior violation shall not require proof that the same pit bull dog is involved. Each day of violation shall be a separate offense.

B. This chapter shall not apply to pit bull dogs which: 1) do not reside in the city of Yakima, 2) are brought into the city for the purposes of participating in a dog show or canine sporting event for which the owner is able to show proof of entry, and 3) do not remain in the city of Yakima for a period exceeding ninety-six consecutive hours.