

**CITY BITES DOG --
REGULATING VICIOUS DOGS/PIT BULL TERRIERS**

by

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INTRODUCTION

At first, the newspaper accounts were infrequent and in other parts of the county: An eleven-year-old Cincinnati boy is killed by pit bull dogs; in North Carolina, a mail carrier is mauled by an American Pit Bull Terrier; Riverside, California pit bull kills an infant; Florida has a rash of pit bull attacks.

Then, in the last year, the horror stories came in rapid succession and they hit close to home: Kelso woman mauled by pit bull terriers; three-year-old Crystal Bernard attacked by pit bull in Sultan, causing extensive facial injuries; five-year-old Gresham, Oregon boy dies after being mauled by pit bull dog; in Mountlake Terrace, two toddlers attacked by female pit bull, both boys requiring stitches for facial injuries; fourteen-year-old boy requires surgery for arm and leg injuries after two pit bull dogs attack him in Kitsap County; pit bull terrier shot by Sweet Home, Oregon police officer after the dog menaced two people; three pit bulls attack two shetland ponies in Marysville, killing one and injuring the other; Tacoma pit bull bites eight-year-old boy, requiring minor surgery on leg wounds; two Everett pit bulls bite nine-year-old girl and two men, prowl neighborhood and attack Animal Control truck.

The public outcry was loud and clear for some sort of governmental response. The 1986 Washington legislature, with Senate Bill 4611, considered a liability insurance requirement for pit bull terrier owners. The Senate passed the bill, taking out any mention of a specific breed, leaving it applicable to all "vicious dogs." The bill was defeated in the House.

The pressure has subsequently come on municipalities to pass local laws dealing with these animals. This paper will provide a brief overview of the pit bull issue and the options available to municipalities.

WHAT IS A PIT BULL TERRIER?

The animal that is the subject of so much controversy assumes many different names: pit bulls, pit bull dogs, bull dogs, pit bulldogs, pit bull terrier. The two major dog clubs in this country have narrowed it down to three names. The American Kennel Club (AKC) registers American Staffordshire Terriers and Staffordshire Bull Terriers. The United Kennel Club (UKC) recognizes the American Pit Bull Terrier (APBT).

The history of this dog is somewhat unclear. Hundreds of years ago in England, very large dogs were bred for bull baiting and bear baiting. As the sport progressed, smaller dogs were bred for more agility. When dog fighting became popular in the early nineteenth century, these "Bulldogs" were crossed with terriers and possibly other breeds. The decades of breeding, both in England and here in the United States, has

resulted in two basic breeds: (1) the dog which is recognized by the United Kennel Club as the American Pit Bull Terrier and by the American Kennel Club as the American Staffordshire Terrier; and (2) the dog recognized by the AKC as the Staffordshire Bull Terrier.¹

The two dogs have the same features, are smooth-haired and large-headed. The basic difference is in their size, with the Staffordshire Bull Terrier being smaller (14-16", 24-38 lbs.) than the APBT (17-19", 40-70 lbs.).²

The common thread that runs through these animals is they have been bred over the centuries for one purpose: fighting. Any trait or characteristic that would be a weakness in the "pit" has been bred out. This will be discussed in more detail in the next section.

You may remember the dog known as "Pete" in the "Our Gang" comedy series. This "Little Rascal" was a pit bull terrier. R.C.A. Victor's dog listening to "His Master's Voice" was also a pit bull terrier, as well as Buster Brown's pal "Tige."

One should be careful to distinguish the pit bull terrier from its cousins, the bulldog and the all-white English Bull Terrier. (The English Bull Terrier may be remembered in Walt Disney's "The Incredible Journey" or as General Patton's dog in the movie with George C. Scott as "Patton.") Although these two breeds share a common heritage of being used as fighting dogs, their use as such occurred so long ago that the fighting instincts have been effectively bred out.

WHY PICK ON PIT BULLS?

Owners of pit bull terriers claim that the hysteria which has grown in this country about their dogs is mainly the result of media hype. They argue that their animals are being wrongly singled out as vicious killing machines. These dogs, so they say, are gentle with their children, affectionate and obedient - the perfect family pet. So why are we picking on them?

A study published in 1982 analyzed 74 fatal dog attacks in the United States (March 1966 through June 1983).³ Their analysis compared the number of deaths caused by a particular breed in relation to the number of that breed registered with the AKC. The study reported: "In relation to its small registration the bull terrier (pit bull) was responsible for the highest number of deaths, but the popularity of this breed may be increasing and, therefore, its population might not be reflected by its registrations."⁴

¹The Complete Dog Book (16th Ed. 1980), p. 514. New York: Howell Book House, Inc.

²Deena B. Case, "The Pit Bull Adoption Quandary," Community Animal Control, March/April, 1984, p. 11.

³Pinckney, Lee E., and Leslie A. Kennedy, 1982, "Traumatic Deaths from Dog Attacks in the United States," Pediatrics, Vol. 69, No. 2, pp. 193-196.

⁴Id., p. 195.

A 1985 report from the Humane Society of the United States on dog bites⁵ discounts this study because of its use of AKC registrations to judge breed populations, and the lumping together of many breeds with similar names. The Humane Society report does mention that "a new (1985) and better controlled report on 16 severe attacks attributes 31% of the attacks to American Staffordshires."⁶

One might conclude that a pit bull is more likely to attack human beings than other breeds. Such is not the case, however. The studies that have been reviewed, and the animal control officers and animal behaviorists that have been consulted all indicate that the pit bull terrier is no more likely to attack persons than any other breed. In fact, because of the intensive breeding for aggression towards other dogs, this breed may be less likely than other dogs to attack humans.

In terms of danger to humans, what sets pit bull terriers apart is that when they do attack humans, the injuries are much more likely to be serious or fatal.

In an article for Community Animal Control magazine, Deena Case, a California animal behavior consultant, outlined the characteristics that have made pit bulls such feared animals:

"The breed has been developed for the purpose of attacking other dogs (or occasionally other animals, such as bulls or hogs). To be an effective fighter, certain traits have been selected and maximized by controlled breeding. These include powerful jaws that grip and do not let go. Pit bulls can easily hang in midair suspended by their teeth. The bite is so firmly held that pit bull fanciers routinely use special wedges of wood called breaking sticks to release the dog's grip.

"In addition to bite power, the dogs are remarkably insensitive to pain.

"Aggressiveness towards other dogs is another characteristic that is selected for in fighting dogs. It almost certainly will try to attack other dogs.

"The pit bull was also bred to be very businesslike and direct about its attacks. The warnings that are commonly seen in other breeds are absent for the most part in the pit bull. They rarely bark or raise their back hair, the attack comes without preliminary displays. While this is desirable in the pit, it can be extremely dangerous if the dog decides to attack a human being.

"Most pit bulls are fairly good with people. As in any breed, however, some are aggressive with people, and have seriously injured their victims. It is easy to see that the combination of traits, bite power, pain

⁵Hodge, Guy R. and Randall Lockwood, Ph.D., "Facts About Dog Bites," The Humane Society of the United States, Washington, D.C. (May 1985).

⁶Id., p. 3.

insensitivity, aggression, lack of normal warning signals, makes the pit bull that is aggressive towards people an absolute menace. Since the pit bull is bred to never quit a fight, they are extremely difficult to dislodge if an attack starts. Pit bulls who have no history of biting people have become highly vicious when running together with at least one other dog. It is possible that the pack situation tends to release aggression towards humans."⁷

Dog fighting continues to exist and thrive in many parts of the country, and so the breeding for these fighting characteristics continue. A study of 32 fighting dogs that were seized in Ohio in 1981 confirmed the above-noted fighting characteristics, and pointed out precautions veterinarians should take when treating pit bull terriers:

"If a pit bull needs to be hospitalized, it should be confined to a cage or run that cannot be opened by the dog, and it should not be allowed to come in contact with other animals in any situation. A pit bull can seriously injure or kill a dog of similar size in a few minutes and it is not easy to detach a pit bull in preferred 'hold.' Pitbulls can bite with greater force than most dogs and once in a hold they do not simply maintain the 'bite,' but continue to grind their premolars and molars into the tissue while the canine teeth stabilize the hold."⁸

Most breeds will fight another dog until one of the dogs has demonstrated his dominance. At that point, the losing dog will admit defeat by laying down and showing their belly to the victor, and the violence ceases. Pit bulls have been bred to kill or be killed. Randall Lockwood, director of higher education for the Humane Society of the United States points out: "They often can't be kept with other dogs. When other dogs submit by showing their bellies, pit bulls have been known to disembowel them."⁹

LEGISLATIVE OPTIONS

If your municipality is considering a vicious dog/pit bull ordinance, there are at least five options available. They are discussed below without comment regarding potential legal challenges, which is left for the next section.

A. Generic Vicious/Dangerous Dog Ordinance

Appendix A is a sample Dangerous Dog Ordinance,¹⁰ which is proposed by the American Dog Owners Association (ADOA) and does not single out any breed. The

⁷Supra, note 2.

⁸Clifford, Donald H., DVA, MPH, Ph.D., et al., "Observations on Fighting Dogs," J Am Vet Med Assoc, Vol. 183, No. 6, pp. 654-657 (Sept. 1983).

⁹Quoted in "The Macho Dog to Have," Newsweek, July 14, 1986, p. 40.

¹⁰Taken from Bloodlines, Vol. 67, No. 3, p. 80 (May-June 1985).

ADOA has been the driving force behind the legal challenges to the various breed specific ordinances around the country.

There are several advantages to this type of ordinance. Since the ADOA endorses it, an organized legal challenge is unlikely. Further, it provides strict regulations for those dogs that have shown signs of being vicious or have already attacked a human or other domestic animal.

The main disadvantage is that it follows the common law "one bite" rule. It is reactive, not preventive. With most breeds, this law might be adequate to prevent serious injuries after the first attack. If the dog that is allowed his "one bite" happens to be pit bull terrier, this single incident could result in serious injury or death.

B. Dangerous Dog/Pit Bull Ordinance

Appendix B is the ordinance that is currently in effect in the city of Everett. This ordinance was copied, almost in its entirety, from an ordinance adopted by Cincinnati in 1983. A copy of that Cincinnati ordinance is attached as Appendix C. These laws classify pit bull terriers as per se dangerous dogs. Pit bulls are not given "one free bite," and are subject to all the enumerated restrictions as if they had already been involved in an attack.

The Everett ordinance is different from the Cincinnati law in that the owner of the dog must have knowledge that his dog is a pit bull terrier, as that term is defined. This knowledge requirement was added to avoid possible constitutional challenges to the ordinance on due process notice grounds. Without specific admissions from the owner, proof of such knowledge could be difficult. To prove such knowledge, Everett Animal Control utilizes a Dangerous Dog Declaration (Appendix D) which is a formal notice to the owner that the city considers their dog to be subject to the ordinance's restrictions.

So far, this method seems to be effective. The handful of persons that have been issued criminal citations for violations of Everett's dangerous dog ordinance have pleaded guilty at arraignment.

C. Liability Insurance Requirement

This option would require owners of known vicious dogs and/or pit bull terriers to acquire liability insurance that would compensate persons injured by their dog. This was part of the bill that was before the 1986 Washington Legislature. Various legislatures around the country have considered requiring coverage from \$25,000 to \$1,000,000.

The obvious advantage to requiring liability insurance is there are reasonable assurances that a person who is injured by a dog that falls under the ordinance will not have to bear the full burden of medical expenses. Such a provision may also serve as a deterrent to persons who are considering purchasing pit bulls and an impetus to those already owning one to remove it from the area.

There are several drawbacks. First, there will have to be a city employee assigned to the task of monitoring the insurance policies to see if they meet the law's requirements, and make sure the dog owner keeps the policy in effect.

Second, this requirement may be interpreted as effectively a total ban on ownership of the affected animal. Insurance agents will be extremely reluctant to insure an animal that has already attacked a human or whose breed has been declared vicious by a municipality. If the dog could be insured, the cost of such coverage would likely be exorbitant and beyond the financial capabilities of the average dog owner.

D. Total Ban of Pit Bulls

This option is the most drastic and the most effective. It is also the option most likely to receive a legal challenge and to be closely scrutinized by the courts. It should be considered as a viable option, however. A New Mexico trial judge has ruled that one village's pit bull ban is constitutional.¹¹

E. Do Nothing

For many municipalities, aggressive enforcement of the laws that presently exist may be sufficient to appease public concern and prevent any tragedies.

Most cities and towns have a leash law. Strict enforcement and stiff penalties could reduce the number of dog owners that allow their animals to run free.

Dog fighting is a gross misdemeanor in Washington. RCW 16.52.117. This offense applies to all persons involved in dog fights, owners, trainers, organizers and spectators alike.

Civil remedies are also available to any victim of damage done by dogs. State law has created strict liability for injuries done to livestock, RCW 16.08.010, and for injuries to persons from dog bites. RCW 16.08.040. The dog owner is liable "regardless of the former viciousness of such dog or the owner's knowledge of such viciousness." *Id.* If the person is bitten on private property, strict liability is imposed only if they were "lawfully" on the property. RCW 16.08.050. Proof of provocation is a complete defense. RCW 16.08.060.

POTENTIAL CHALLENGES TO BREED SPECIFIC ORDINANCES

Any challenge to an ordinance that singles out pit bull terriers for special treatment will argue that the regulation violates both due process and equal protection. In Florida, the dog owners have been successful in striking down breed specific laws in both federal and state courts. As noted earlier, a New Mexico judge has ruled the pit bull ban by the village of Tijeras to be constitutional. At this time, I am not aware of any legal challenge to any such law in this state.

¹¹Bloodlines, Vol. 68, No. 3, p. 52 (May-June 1986).

A. Authority to Regulate Dogs

That dogs are subject to a municipality's police power is well established, as set forth by the Washington Supreme Court in McQueen v. Kittitas County, 115 Wash. 672, 198 Pac. 394 (1921):

"It is almost universal current of authority that dogs are a subject of the police power of the state, and their keeping subject to any form of license and regulation, even to absolute prohibition."

Id., at 677.

The court went on further to say that:

". . .since dogs are a subject of the police power, we see no reason why the legislature may not make distinctions between breeds, sizes and the localities in which they are kept. The object of the statute is protection. The purpose is to prevent injuries to persons and property by dogs. Any distinction founded upon reasons at least, is therefore valid. . . ."

Id., at 678.

McQuillin comments as follows:

"The primary purpose of dog ordinances and statutes is protection of the public from injury or damage, and, it may be remarked, their purpose is not to deprive one of property or benefits relative to his dog or to give one rights or immunities with reference to the dog of another. But property rights in dogs have been regarded as qualified. That is to say, dogs because of their propensities are, and from time immemorial have been, peculiarly subject to rigorous police regulation."

McQuillin, Municipal Corporations, Sec. 24.284, Vol. 7, p. 135 (3rd Ed., 1971).

B. Procedural Due Process - Vagueness

Any challenge to a pit bull ordinance will include an argument that the law is unconstitutionally vague. "Vagueness" is a question of procedural due process. Statutes need only provide fair notice, measured by common practice and understanding, of the conduct which is prohibited and proper standards for adjudication. "Impossible standards of specificity are not required." Blondheim v. State, 84 Wn.2d 874, 878, 529 P.2d 1096, 1100 (1975). Statutes and ordinances are presumed constitutional, and the party challenging the regulation has the burden of demonstrating impermissible vagueness beyond a reasonable doubt. Seattle v. Shepard, 93 Wn.2d 861, 613 P.2d 1158 (1980).

The U.S. District Court in Florida held that a Broward County, Florida ordinance was unconstitutionally vague in several respects.¹² That ordinance defined pit bulls as

¹²Decision reported in Bloodlines, Vol. 67, No. 6, pp. 55-56 (Nov.-Dec. 1985).

those "Pit Bulls," "American Staffordshire Terriers," and/or "Staffordshire Bull Terriers that substantially conform to the standards set down by the AKC and the UKC. Since these standards are not uniform as to color, height, weight, etc., the court reasoned, they are not specific enough to pass constitutional muster.

Further, the Florida District Court found unconstitutionally vague the ordinance's exceptions to the leash and muzzle requirements for dogs attending "lawful" dog shows or in "authorized areas" with "competent" persons.¹³

A definition of pit bulls should take a common sense approach. The average person can identify a collie or a German shepherd. For those persons who have had contact with pit bulls, their identification is equally as simple. A definition of the breed that anticipates visual identification of those dogs we know as the American Pit Bull Terrier, the American Staffordshire Terrier and the Staffordshire Bull Terrier gives sufficient notice to the average person. The judge in the New Mexico case found that "the breed known as the American Pit Bull Terrier is a recognized breed and readily identifiable by a lay person."¹⁴

The Everett ordinance went one step further, and places the burden of proof as to notice on the prosecution. This was done by defining a dangerous dog as "any dog known by the owner to be a pit bull terrier..." Appendix C, Sec. 2(B)(3). It is difficult for a dog owner to argue he did not have fair notice his dog is a pit bull when he has personally received formal notice of that fact from an animal control officer. (Dangerous Dog Declaration, Appendix D).

Terms open to broad interpretation, such as "lawful," "authorized areas" and "competent persons" should be avoided if at all possible.

C. Equal Protection

Because pit bull owners are being singled out, there will be a challenge to any breed specific ordinance on the basis that their right to equal protection has been violated.

"There are three levels of equal protection analysis: the rational relationship test, intermediate scrutiny, and the strict scrutiny applied when a law creates a suspect classification or implicates a fundamental right." In re Mayner, 41 Wn. App. 598, 602, 705 P.2d 284 (1985).

Since pit bull ownership is not a suspect classification and does not involve a fundamental or basic human right, the appropriate method of equal protection analysis for breed specific ordinances is the rational relationship test, also called the minimum scrutiny test.

"Under the minimum scrutiny test, the reviewing court must determine whether: (1) the legislation applies equally to all members within the designated class; (2) there are reasonable grounds to distinguish between

¹³Id., p. 56.

¹⁴Supra, note 11.

those within and those without the class; and (3) the classification has a rational relationship to the purpose of the statute."

Abbot v. General Accident Group, 39 Wn. App. 263, 269, 693 P.2d 130 (1984).

1. The ordinances that single out pit bulls apply equally to all pit bull owners.
2. There exist reasonable grounds to distinguish between pit bull terrier owners and other dog owners. Pit bulls have unique traits and characteristics that pose a greater threat of serious injury or death to humans than other dogs.
3. Restricting the movements of the dog or banning pit bulls outright is rationally related to the purpose of such a law, which is protection of the public.

It is important that a good record is made of the basis for passage of the ordinance. Documentation and expert witnesses are essential for any public hearings if the law is to be sustained on appeal.

CONCLUSION

If your city or town council considers adopting any breed specific ordinance, be prepared for an onslaught of letters and telephone calls protesting this dog discrimination. The main focus of the pit bull terrier clubs will be to nip these laws in the bud. The American Dog Owners Association has little money left to challenge all the pit bull laws being enacted around the nation.¹⁵

It is a certainty that the number of pit bull terriers will be increasing greatly in the next few years. Most municipalities will need to study the issues involved, even if no action is taken. The issue will not be going away soon since, as Randall Lockwood of the Humane Society of the U.S. points out, "the pit bull has replaced the German shepherd and the Doberman as the macho dog to have."¹⁶

¹⁵Peggy Allen, "Two Wins Too," Bloodlines, Vol. 68, No. 3, p. 52 (May-June 1986).

¹⁶Supra, note 9.

APPENDIX A

SAMPLE DANGEROUS DOG ORDINANCE

Proposed by American Dog Owners Association

- A. As used in this Section, "Dangerous dogs" shall mean and include:
1. 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; or
 2. Any dog which attacks a human being or domestic animal without provocation; or
 3. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.
- B. No person owning or harboring or having the care or custody of a dangerous dog shall suffer or permit such dog to go unconfined on the premises of such person. A dangerous dog is "unconfined" as the term is used in this section if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or a dog run area upon the premises of said person. Such pen or dog run area must also have either sides six feet high or a secure top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded into the ground no less than one foot.
- C. No person owning or harboring, or having the care of a dangerous dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length.
- D. No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purposes of causing or encouraging said dog to unprovoked attacks upon human beings or domestic animals.
- E. No person shall possess with intent to sell, or offer for sale, breed, or buy or attempt to buy within the city any dangerous dog.
- F. In the event that a law enforcement agent has probable cause to believe that a dangerous dog is being harbored or cared for in violation of Sections (b), (c), (d), and (e), the law enforcement agent may petition a court of competent jurisdiction to order the seizure and impoundment of the dangerous dog pending trial. In the event that a law enforcement agent has probable cause to believe that a dangerous dog is being harbored or housed in violation of Section (c), the law enforcement agent may seize and impound the dangerous dog pending trial.

G. Penalty.

1. Whoever violates this section shall be guilty of a misdemeanor of the first degree. Whoever is found guilty of a second offense of violating this section shall be guilty of a misdemeanor of the first degree and shall be fined \$1,000.00 which fine shall be mandatory, and shall not be suspended or remitted.
2. Any dangerous dog which attacks a human being or another domestic animal may be ordered destroyed when in the court's judgment, such dangerous dog represents a continuing threat of serious harm to human beings or other domestic animals.
3. Any person found guilty of violating this section shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding and veterinary expenses necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the destruction of any such dog.

APPENDIX B

ORDINANCE NO. _____

IT IS HEREBY ORDAINED:

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

Section 2: Definitions. As used in this chapter:

- A. "Owner" means any person or legal entity having a possessory property right in a dog or who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by them.
- B. "Dangerous dog" means:
 - 1. Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; or
 - 2. Any dog which attacks a human being or other domestic animal without provocation; or
 - 3. Any dog known by the owner to be a pit bull terrier, which shall herein be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier.
- C. A dangerous dog is "unconfined" if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

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

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

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

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

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

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

APPENDIX C

CINCINNATI ORDINANCE

- A. No person owning or harboring or having the care of a vicious dog shall suffer or permit such animal to go unconfined on premises of such person.
- B. No person owning or harboring or having the care of a vicious dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely leashed and muzzled or otherwise securely restrained and muzzled.
- C. Definitions.
 - 1. A vicious dog is "unconfined" as the term is used in this section if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the person described in subsection (a) hereof. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.
 - 2. A "vicious dog" as the term is used in this section means:
 - a. Any dog with a propensity, tendency, or disposition to attack, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; or
 - b. Any dog which attacks a human being or other domestic animal one or more times without provocation; or
 - c. Any pit bull terrier which shall herein be defined as any Staffordshire Bull Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier or American Staffordshire Terrier by a qualified veterinarian duly licensed as such by the State of Ohio.
- D. Subsections (a) and (b) above are necessary controls on the unrestrained activities of vicious animals which threaten the safety and pleasantness of streets, parks, sidewalks, yards, and all areas of the city; and the lack of knowledge of intent is not a defense in violation thereof.

APPENDIX D

(Date)

DANGEROUS DOG DECLARATION

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

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

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

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

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

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

ANIMAL CONTROL OFFICER

Copy received this _____ day
of _____, 19 _____.
