

ORDINANCE NO. 732

AN ORDINANCE TO ADD CHAPTER 2 TO TITLE 10 OF THE ETOWAH MUNICIPAL CODE TO PROHIBIT, SUBJECT TO CERTAIN EXCEPTIONS, THE OWNERSHIP, HARBORING, OR POSSESSING OF PIT BULLS WITHIN THE CITY OF ETOWAH, TENNESSEE.

WHEREAS, the breeds of dogs known as “pit bulls” include any American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog which has the appearance and characteristics of being predominantly of any one or more of the above breeds; and

WHEREAS, the characteristics selectively bred into or otherwise commonly found in those dogs include:

1) A strong fighting instinct, together with a low level of fighting inhibitions which make pit bulls a hazard to humans as well as other animals;

2) A strong chase instinct which, experts believe, causes pit bulls to be a danger around running children;

3) A tendency to attack even those who exhibit no provocative behavior;

4) A diminished tendency to bark, growl, or otherwise warn their prey of an intent to attack;

5) A tendency to fight to the death and never quit a fight once engaged, which results in more severe injuries than those inflicted by other breeds;

6) The ability to withstand great pain, which makes it difficult for a person or animal to fight off a pit bull attack;

7) Powerful jaws capable of hanging on to victims even while the animal withstands infliction of injury or pain;

8) A tendency to tear flesh, which has resulted in grotesque injuries to human victims; and

9) A combination of agility, stamina, and strength, together with a genetic predisposition to aggressiveness, that makes pit bulls uniquely dangerous, even to their

owners, among all breeds of dogs, especially where improperly raised or trained; and

WHEREAS, other cities have found that pit bulls are so dangerous to humans and other animals that special legislation restricting or prohibiting their ownership has been enacted; and

WHEREAS, the mere possession of pit bulls poses a significant threat to the health, welfare and safety of Etowah citizens; and

WHEREAS, current methods of control by pit bull owners in the city have proved to be insufficient in protecting the public; and

WHEREAS, the Board of Commissioners believes it is necessary to prohibit pit bulls, subject to certain exceptions, within the city in order to protect the health, welfare and safety of citizens of the City of Etowah;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ETOWAH AS FOLLOWS:

SECTION 1. Chapter 2, "Pit Bulls," is added to title 10 of the Etowah Municipal Code to read as follows:

CHAPTER 2

PIT BULLS

SECTION

10-201.Definitions.

10-202.Restrictions.

10-203.Standards and requirements.

10-204.Sale or transfer of ownership prohibited.

10-205.Animals born of registered dogs.

10-206.Rebuttable presumptions.

10-207.Failure to comply.

10-208. Violations and penalties.

10-201. Definitions. The words, terms, and phrases, and their derivations as used in this chapter, except where the context clearly indicates otherwise, shall have the following meanings:

1. "Impoundment" means the taking or picking up and confining of an animal by any police officer, animal control officer or any other public officer under the provisions of this chapter.

2. "Muzzle" means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

3. "Pit bull" means and includes any of the following dogs:

a. The bull terrier breed of dog;

b. The Staffordshire bull terrier breed of dog;

c. The American pit bull terrier breed of dog;

d. The American Staffordshire terrier breed of dog;

and

e. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bull, pit bull dogs or pit bull terriers; and

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

4. "Owner" means any person, partnership, corporation or other legal entity owning, harboring or possessing any pit bull, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. A pit bull shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.

5. "Predominantly" means knowledge through identification procedures or otherwise, or admission by owner, keeper, or harborer that the dog is more than fifty percent pit bull. Predominantly also means that the dog exhibits the physical characteristics of a pit bull more than that of any other breed of dog.

6. "Sanitary condition" means a condition of good order and cleanliness to minimize the possibility of disease transmission.

7. “Under restraint” means that the dog is secured by a leash, led under the control of a person physically capable of restraining the dog and obedient to that person’s commands, or securely enclosed within the real property limits of the owner’s premises.

10-202.Restrictions. It shall be unlawful to keep, harbor, own or in any way possess a pit bull dog within the corporate limits of Etowah. Provided, however, that persons owning such dogs at the time this chapter is adopted shall be allowed to keep them, provided that they comply with all of the provisions of this chapter, including § 10-203, within thirty (30) days of the effective date of this chapter.

10-203.Standards and requirements. The following standards and requirements apply to pit bull dogs located within the corporate limits.

Registration. Each owner, keeper, harbinger, or possessor of a pit bull dog shall register such dog with the city recorder.

Leash. No person having charge, custody, control, or possession of a pit bull shall permit the dog to go outside its kennel, pen, or other proper enclosure unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person of suitable age and discretion is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or structures.

3. Muzzle. It is unlawful for any owner or keeper of a pit bull to allow the dog to be outside its kennel, pen, or other proper enclosure unless it is necessary for the dog to receive veterinary care. In such cases, the dog must wear a properly fitted muzzle sufficient to prevent such dog from biting persons or other animals. Such muzzle shall not interfere with the dog’s breathing or vision.

4. Confinement. Except when leashed and muzzled as provided in this section, all pit bull dogs shall be securely confined indoors or confined in a locked pen, kennel, or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure and the structure must have a secure floor 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 zoning and building ordinances and regulations of the City of Etowah. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, be adequately lighted and ventilated and kept in a clean and sanitary condition.

5. Confinement indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own

volition. In addition, no such dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

6. Signs. All owners, keepers, harborers, or possessors of pit bull dogs shall 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 must be posted on the kennel or pen of such animal.

7. Insurance. All owners, keepers, harborers or possessors of pit bull dogs must provide proof to the city recorder 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 owning, possessing, keeping or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the city recorder.

8. Identification photographs. All owners, keepers, possessors, or harborers of pit bull dogs must provide to the city recorder two color photographs of the dog clearly showing the color and approximate size of the animal.

9. Reporting requirements. All owners, keepers, possessors, or harborers of pit bull dogs must within ten (10) days of the incident report the following information in writing to the city recorder 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 within the corporate limits of the city.

10-204.Sale or transfer of ownership prohibited. No person shall sell, barter or in any other way transfer possession of a pit bull dog to any person within the City of Etowah unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the City of Etowah.

10-205.Animals born of registered dogs. All offspring born of pit bull dogs within the City of Etowah must be removed from the City of Etowah within six (6) weeks of the birth of such animal.

10-206.Rebuttable presumptions. There shall be a rebuttable presumption that any dog registered within the City of Etowah as a pit bull dog or any of those breeds defined by § 10-201 of this chapter is in fact a dog subject to the requirements of this code.

10-207.Failure to comply. It shall be unlawful for the owner, keeper, harborer, or possessor of a pit bull dog within the City of Etowah to fail to comply with the provisions of this chapter. Any dog found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City of Etowah.

10-208.Violations and penalties. Any persons violating or permitting the violation of any provision of this chapter shall be guilty of a civil offense, and upon conviction shall be subject to the fine prescribed in the general penalty clause of the Etowah Municipal Code. Each day such violation shall continue constitutes a separate offense. In addition to the foregoing penalty, any person who violates this chapter shall pay all expenses, including sums for shelter, food, handling, veterinary care and expert testimony, which are necessitated by the person's failure to abide by the provisions of this chapter.

SECTION 2. BE IT FURTHER ORDAINED, That all laws and ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. BE IT FURTHER ORDAINED, That this ordinance shall take effect from and after its passage on second and final reading and publication as required by law, the public welfare requiring it.

PASSED ON FIRST READING

PASSED ON SECOND READING

APPROVED AND SIGNED IN OPEN MEETING ON THE _____ DAY OF
_____, 20____

ATTEST: _____

Jim Bull, Mayor

April Preston, City Recorder

APPROVED AS TO FORM:

Russ Blair, City Attorney