

ORDINANCE NO. 317

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON

AN ORDINANCE AMENDING SECTION 1 AND ADDING A NEW SECTION 1.5
TO TITLE 10, CHAPTER 3, ARTICLE 3 OF THE LIVINGSTON CITY CODE

The City Council of the City of Livingston does ordain as follows:

That Section 1 is amended and a new Section 1.5 entitled "Keeping of Registered Pit Bulls" is hereby added to Title 10, Chapter 3, Article 3 of the Livingston City Code to read as follows:

Section 1 - Animals Prohibited Within City Limits. It shall be unlawful and a public nuisance for any person to keep, possess, maintain or harbor any of the following animals within the corporate limits of the City:

- (A) Any dog for which a license has not been obtained for that year, excepting those which are currently licensed by other public entities which also require effective rabies and distemper vaccinations, and which will be kept within the City for a period not exceeding seven (7) days.
- (B) Any horse, mule, ass, goat, sheep, hog, bull, ox, cow, or other livestock, except that such animals may be brought into the City for any regularly scheduled authorized parade or public exhibition but only for the time reasonably required for the parade or exhibition.
- (C) Any rooster, chicken, goose, duck, turkey or other domestic fowl, except this prohibition shall not apply to the place of business of any commercial business duly licensed by the City to process domestic fowl.
- (D) Any stand or hive of bees.
- (E) Any rabbit.
- (F) The keeping of the following for any purpose whatsoever at any one residence or place of business:
 1. More than three (3) dogs over the age of four (4) months.
 2. More than three (3) cats over the age of six (6) weeks.
 3. More than twelve (12) of any one or combination of chinchillas, hamsters, white mice or other laboratory animals.

(G) Any animal which does not comply with all other provisions of this Chapter or any other ordinance of the City.

(H) Any pit bull dog; provided, that pit bull dogs registered with the City on the effective date of this ordinance may be kept within the City subject to the standards and requirements set forth in Section 1.5 of this Article. "Pit bull dog" is defined to mean:

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

Section 1.5 - Keeping of Registered Pit Bulls. The provisions of Section 1 of this Article are not applicable to owners, keepers or harborers of pit bull dogs registered with the City on the effective date of this Article. The keeping of such dogs, however, shall be subject to the following standards:

(A) 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 a dog from biting persons or other animals.

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

(C) 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.

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

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

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

(G) 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 Livingston City Clerk as required hereinafter:

1. The removal from the City or death of a registered pit bull dog;
2. The birth of offspring of a registered pit bull dog;
3. The new address of a registered pit bull dog owner should the owner move within the corporate City limits.

(H) 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 or the offspring of such dog to persons who do not reside within the City.

(I) 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 an animal.

(J) Irrebuttable Presumptions: There shall be an irrebuttable presumption that any dog registered with the City as a pit bull dog or any of those breeds prohibited by Section 1 of this Article is in fact a dog subject to the requirements of this Section.

(K) Failure to Comply: It shall be unlawful for the owner, keeper or harborer of a pit bull dog registered with the City of Livingston to fail to comply with the requirements and conditions set forth in this ordinance. Any dog found to be the subject of a violation of this ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the immediate removal of the animal from the City.

(L) Violations and Penalties: Any person violating or permitting the violation of any provision of this ordinance shall upon conviction in Municipal Court be fined a sum not less than \$250.00 and not more than \$1,000.00. In addition to the fine imposed the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed thirty (30) days.

In addition, the Court shall order the registration of the subject pit bull revoked and the dog removed from the City. Should the defendant refuse to remove the dog from the City, the Municipal Court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance.

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

Introduced: March 3, 1987
Passed and Adopted: March 17, 1987

Guadalupe A. Garcia
GUADALUPE A. GARCIA, Mayor
of the City of Livingston

ATTEST:

State of California)
County of Merced)
City of Livingston)

I, hereby certify, that the foregoing ordinance was duly introduced on the 3rd day of March, 1987, and was regularly passed and adopted by the City Council of the City of Livingston on this 17th day of March, 1987, by the following vote:

AYES: 3
NOES: 1
ABSENT: 0 -

Woody Campini
WOODY CAMPINI, City Clerk
of the City of Livingston

TO: CITY COUNCIL OF THE CITY OF LIVINGSTON
FROM: NELSON F. GOMEZ, City Attorney
SUBJECT: PIT BULL ORDINANCE

I have reviewed the Pit Bull Ordinance which was introduced at the regular meeting of the Livingston City Council on March 3, 1987, and proceeded to review the constitutionality of said ordinance in light of the problems which could arise by regulating only one breed of dogs. After reviewing California and Federal Law, specifically Starky vs. Township of Chester, 628F. Supp. (E.D. P.a. 1986), I am convinced that the ordinance which is currently being proposed meets the requirements outlined in the case law to be constitutionally sound.

In the Starky case, a city passed an ordinance which strictly regulated Pit Bulls and no other kind of dogs. A Pit Bull owner then attempted to have the city's ordinance thrown out as unconstitutional because it would only affect one breed of dog. The Court, in rejecting a request to issue a preliminary injunction, determined that the Pit Bull ordinance was constitutional. The Court said that because the ordinance had in fact made a determination that Pit Bulls are dangerous, it could reasonably restrict those kinds of dogs while not restricting other breeds of dogs. The Court also said that the city does not need to regulate every kind of animal in the same way in order to have a constitutional ordinance.

In the ordinance that has been presented to the City Council we see that Pit Bulls are not automatically excluded from the City of Livingston, but rather restrictions are put on them to insure the safety and the welfare of the citizens and animals which reside within the city limits of the City of Livingston. It is my opinion, from reading the case law and the ordinance that this particular ordinance encompasses the requirements which courts have deemed necessary in order to be constitutionally sound.

Therefore, I would recommend that the City Council of the City of Livingston waive the second reading of the Pit Bull ordinance and adopt said ordinance.

Valley Town Puts Pit Bulls In Dog House

Livingston, Merced County

City officials believe a ban on new pit bulldogs in this San Joaquin Valley community is the first in California.

"The nature of the pit bull is a dog that feels no pain, that when it bites it holds on and that it even tears at its victim," Planning Director Mike Dozier said yesterday. "The attack from the pit bull is nasty."

The measure adopted Tuesday bars the city's 6,800 residents from keeping new pit bulls after April 15, when the ordinance takes effect. People who already own pit bulls must register them with the city Animal Control Department and keep them in locked pens. Owners will be required to carry \$50,000 in liability insurance and post warning signs on their property.

Violators can be punished by fines of up to \$1000 and sentenced to 30 days in jail.

The City Council took the action after discovering there were at least 25 pit bulls in town.

"Pit bulls have become sort of the macho dog of the '80s," said Jim Bennett, a Stanislaus State University planning intern who wrote the city's ordinance.

Last year, numerous residents complained about pit bulls roaming the streets, and in one case a young girl was attacked but not seriously hurt, Dozier said.

Although other California cities have tried to ban the dogs, their efforts failed because of objections by kennel owners and breeders, said Dozier.

Associated Press

City of Livingston, P.O. Box 308, Livingston
CA 95334 209-394-8041

Mayor, Mr. Guadalupe A. Garcia, 1124 - 2nd,
Livingston CA 95334 209-394-2472

Dissenting council member: Frank Wells, 1159 2nd,
Livingston CA 95334 209-394-7084

Small animal veterinarian: Manjit S. Nagi, DVM,
117-3rd, Livingston CA 95334 209-394-8556

City Attorney: Nelson F. Gomez, 2101 Geer Road,
Turlock CA 95380 209-668-1410

Newspapers:

The Livingston Chronicle, 424-3rd, Livingston
CA 95334 209-394-7939

owned by The Merced Sun Star, 3033-G, Merced 95354

Turlock Journal, 138 S. Center, Turlock 95380

Modesto Bee 1325-H, Modesto CA 95354 (ran
editorial praising Livingston law.

All breed, show giving clubs in the region:

- Golden Valley Kennel Club
- Kings Kennel Club of California
- Sequoia Kennel Club
- Sun Mail Kennel Club of Fresno
- Yosemite Kennel Club
- San Joaquin Kennel Club

Obedience:

- Fresno Dog Training Club
- San Joaquin Dog Training Club