

**American Rottweiler Club, Inc.
16005 Pine Creek Way
Magnolia, TX 77358**

July 14, 2009

Mr. Brent Howard
President, Whitehall City Council
360 S. Yearling Rd
Whitehall, OH 4321

RE: "PIT BULL" BAN - OPPOSED

Dear President Howard and Respected Members of the Whitehall City Council:

The American Rottweiler Club, Inc. (ARC), the parent club of the American Kennel Club (AKC) for the Rottweiler breed in the United States, representing thousands of dog owners, is writing to express our grave concern over a Whitehall **breed ban ordinance**.

Since its inception, the American Rottweiler Club has devoted significant time and resources in educating the public on dog bite prevention and safety around dogs. Our highly specialized knowledge and expertise in dogs is derived from literally hundreds of years of collective canine experience in matters of training, behavior and sound temperaments.

We therefore respectfully submit our official and unequivocal opposition to any breed-specific ordinance, AKA Whitehall Pit Bull Ban Ordinance and to any other bill creating breed specific legislation for "pit bull dogs" or any other breed or "type" of dog.

As outlined in detail below, as such legislation is dangerous and irresponsible. In addition, breed-specific ordinances – AKA a Whitehall Pit Bull Ban Ordinance:

- **Criminalizes dog ownership**
- **Deprives dog-owing citizens of Due Process**
- **Creates a proxy for warrantless searches and seizures**
- **Set the stage for mass extermination of innocent dogs**
- **Fails to protect the public health and safety**

The Duty To Protect The Public Health & Safety

Protecting the public health and safety – especially that of innocent children and the elderly – is and always has been the top priority of The American Rottweiler Club, a priority which the Great State of Ohio no doubt shares and which may be the very reason A Whitehall Pit Bull Ban Ordinance may have been intended.

The Duty To Protect The Public Health & Safety – Cont'd.

Recent news reports about dog bite incidents in Whitehall, Ohio have heightened awareness about the dangers of loose running or uncontrolled dogs, an issue responsible for the vast majority of dog bites in the U.S.

However, we feel it our duty to advise the Whitehall City Council that ***breed specific legislation is a failed policy*** in the prevention of dog bites or fatalities, and that the enactment of a Whitehall Pit Bull Ban Ordinance will not only fail to protect the public but may actually increase the risk of dog bites or fatalities.

Breed specific policies pose a danger to public health.

The American Rottweiler Club bases its position on official information from The **Centers For Disease Control (CDC)**, the country's highest authority on matters of public health and safety.

As you are aware, the CDC is the federal agency charged with overseeing the public and safety for the United States, and as such is the official governmental repository for dog bite data, which is collected from public health offices on an annual basis.

In terms of a WHITEHALL PIT BULL BAN ORDINANCE, we must advise the Whitehall City Council that the Centers For Disease Control, as well as the American Veterinary Medical Association, both strongly oppose breed specific legislation and have stated their respective official positions for the public record.

According to the CDC, the vast majority of 800,000 dog bites that occur annually in the United States are minor in nature. Fewer than 24 fatalities occur each year due to dog attacks, and are extremely rare events, according to the CDC, is .000578 rated next to human and dog populations in the U.S.

Dog bite incidents are highly preventable through basic dog bite prevention education of children, parents and elderly populations, as unsupervised children and the elderly are often victims of loose, roaming dogs, or because they fail to recognize when a dog feels threatened or is ill.

The American Rottweiler Club works with communities across the nation to educate the public and policy makers about simple measures that yield large results, such as strict enforcement of local leash laws, educating parents about the importance of never leaving children unsupervised around dogs, and community dog bite prevention education.

Correcting The Myth - CDC Dog Bite Facts

With regard to A WHITEHALL PIT BULL BAN ORDINANCE, the presumption of the bills' author is that "Pit Bulls" are inherently dangerous animals. ***This is a myth that must be corrected.***

We therefore advise the Whitehall City Council that the CDC and the American Veterinary Medical Association conducted an extensive study of dog bites and fatalities in the United States, covering a period of over 20 years of data.

Published in the Journal of American Veterinary Medicine, the study concluded that ***no one single breed of dog is inherently dangerous***, (<http://www.cdc.gov/ncipc/duip/dogbreeds.pdf>), and that other breeds or types of dogs may bite at a higher rate.

In addition, it was found that other factors – especially owner behavior – were more predictive than breed. The CDC thus concluded that the breed of dog was not relevant in tracking or preventing dog bites and fatalities.

The CDC study also concluded that breed bans and other laws aimed at specific breeds or types of dogs are ***not effective in the prevention of dog bites or attacks***; and such laws actually ***places the public at greater risk of harm*** due to a false sense of security these laws create.

Upon completion of the study, the CDC and the AVMA issued a joint report entitled ***A Community Approach To Dog Bite Prevention***, which outlines in detail sound public health policy in the prevention of dog bites and fatalities and strongly advises local governments *against* the enactment of breed specific laws and measures, warning of the dangers of breed specific legislation.

For your reference and convenience, we have attached a copy of ***A Community Approach To Dog Bite Prevention*** as well as a letter from the American Veterinary Medical Association regarding any misinterpretation or misrepresentation of the data.

We strongly recommend that the Whitehall City Council act to protect the public by following the public safety guidelines set forth by the Centers For Disease Control.

A WHITEHALL PIT BULL BAN ORDINANCE: Criminalizing Dog Ownership

A primary flaw of A WHITEHALL PIT BULL BAN ORDINANCE is criminalization of the ownership of dogs in the attempt to regulate “pit bulls”.

It should be known that the term “Pit Bull” is a slang term coined by the media and inappropriately applied to describe a collection of dogs that “look” a certain way.

In recent years, the term “Pit Bull” has been used indiscriminately used by the media to sensationalize and inflame news stories concerning dog bites or attacks, which are relatively rare occurrences in contrast to human and canine populations.

The misuse of this slang term, “pit bull”, has led to widespread issues with breed identification or rather breed “misidentification – so much so that the Centers For Disease Control, the country’s top dog bite experts, stopped collecting dog bite data by breed in 2004.

We must point out that A WHITEHALL PIT BULL BAN ORDINANCE carries a provision that defines a “vicious” animal as:

“Any animal, whether wild or domestic, which by virtue of its species, physical attributes, temperament and other characteristics presents a substantial risk of serious physical harm to persons.”

This discriminatory language and its intent are in direct contradiction to the findings of the Centers For Disease Control, and **automatically makes criminals of dog owners** simply for owning the “wrong breed” of dog.

Interference With Lawful Activities

By criminalizing dog owners, the State Of Whitehall, Ohio, will, under A WHITEHALL PIT BULL BAN ORDINANCE, unnecessarily interfere with the normal and lawful activities of all dog owners, dog clubs and dog registries that organize and participate in lawful, sanctioned dog events and other legal activities.

- A WHITEHALL PIT BULL BAN ORDINANCE may criminalize dog shows & dog sports and other canine activities
- A WHITEHALL PIT BULL BAN ORDINANCE may criminalize the breeding of dogs
- A WHITEHALL PIT BULL BAN ORDINANCE may criminalize the sale or transfer of dogs
- A WHITEHALL PIT BULL BAN ORDINANCE may criminalize the transportation of dogs

A WHITEHALL PIT BULL BAN ORDINANCE: Breed Identification Issues

It is of the very greatest concern that the language of A WHITEHALL PIT BULL BAN ORDINANCE is so broad and so extremely vague that if enacted, would encompass more than 30 breeds of dogs - *literally a multitude of breeds and mixed breed dogs would be* incorrectly deemed "illegal" as "Pit Bulls".

The language below could be used to inappropriately, subjectively and arbitrarily indentify dogs as the mythical "Pit Bull":

"Any animal, whether wild or domestic, which by virtue of its species, physical attributes, temperament and other characteristics presents a substantial risk of serious physical harm to persons."

The danger in this language is that A WHITEHALL PIT BULL BAN ORDINANCE could be interpreted to include ***almost any mixed breed dog or any dog of unknown parentage.***

Next, it seems A WHITEHALL PIT BULL BAN ORDINANCE leaves breed identification of dogs solely to county or local officials, or shelter workers, none of whom have the training, skill or depth of experience to appropriately identify specific breeds of dogs against a set breed standards.

In practice, the identification of purebred dogs, matching a dog against breed standards, takes years of training and education in order to appropriately identify breeds within the context.

The identification of mixed breed dogs, or shelter dogs whose background or parentage is not known, is not based in any science whatsoever.

As the Esteemed Members of the City Council would no doubt agree, merely "guessing" at a dog's breed or parentage by such non-experts as local officials, animal control officers or shelter workers is certainly not the basis upon which to predicate a decision that may cost an owner his or her beloved dog or worse, a cost a dog its life.

Enforcement: Difficult, Expensive & Ineffective

Numerous communities across the country have considered breed specific legislation and made the determination that such laws are ineffective, expensive and difficult to enforce.

Breed specific laws such as A WHITEHALL PIT BULL BAN ORDINANCE can add significant costs to local municipal budgets; dramatically escalate the number of hours police or animal control work, and all without of reducing dog bite incidents, vicious dog complaints or achieving the objective of enhanced public safety.

Enforcement: Difficult, Expensive & Ineffective – Cont’d.

Cities opting out of breed specific legislation have instead chosen to enforce or strengthen existing laws and address the issue of dangerous dogs following the guidelines set forth by both the CDC and the AVMA.

Increased Surrenders, Overburdened Shelters & Out-Of-Control Budgets

Shelters in cities where breed specific laws have been enacted have seen a sharp spike in owner surrenders, which in turn increases sheltering costs and euthanasia of formerly-owned dogs.

This is directly due to the fact that many dog owners become fearful of new, breed-specific laws, and find it difficult, expensive to comply or cannot afford to move out of town or out of state with their dogs.

The impact of breed specific laws is the swelling of already overburdened shelter populations, budgets that quickly spiral out of control, and the unnecessary euthanasia of healthy dogs.

Instead of functioning life-saving stations, local shelters will become death camps for innocent dogs.

A WHITEHALL PIT BULL BAN ORDINANCE: Liability Issues

The City of Whitehall must made aware of, and bear the serious liability it will incur under A WHITEHALL PIT BULL BAN ORDINANCE, for allowing such non-experts as law enforcement personnel or shelter workers to act in any capacity which would result in the unnecessary deaths of innocent animals.

In doing so, the City of Whitehall, Ohio will facilitate the arbitrary seizure, impoundment and destruction of private personal property - thereby depriving a citizen the right to Due Process – all on the basis on a dog’s “looks” and not any behavior.

Just as questionable is the use of technologies such as DNA testing to establish canine breed identity, which is not just cost-prohibitive (\$65 - \$200 per test), but unreliable, as the DNA test accuracy may be as low as 23%.

Therefore, we ask the Esteemed Members of the City Council to consider what personnel at the local or state level will be responsible for identifying dogs as “Pit Bulls”?

A WHITEHALL PIT BULL BAN ORDINANCE, left to the subjective interpretation of breed identification of local animal control or police, or humane societies will **criminalize ordinary dogs and make criminals of dog owners** and send innocent dogs to their deaths.

It is the position of the ARC that that the liability incurred under A WHITEHALL PIT BULL BAN ORDINANCE is an unintended consequence of significant magnitude.

A WHITEHALL PIT BULL BAN ORDINANCE: Eliminating Presumption Of Innocence

A WHITEHALL PIT BULL BAN ORDINANCE **eliminates the presumption of innocence** making all dog owners of “targeted breeds” **guilty and without recourse.**

Under the rules of our judiciary, it is unimaginable to think that local or state government would create a reverse onus – thus shifting the burden of proof from the state to the accused.

Our response is to respectfully remind the City Council Members that our judicial system operates upon the presumption that all citizens in the United States **are innocent until proven guilty**, not the reverse.

It is frightening to think that in Whitehall, Ohio the average dog owner will be deemed a criminal by any local authority which will apply a highly subjective interpretation of the term “Pit Bull” and lacks any expertise in canine identification.

Furthermore, it is unclear if there exists a hearing or an appeals process by which may defend themselves against charges.

Under this bill, after a dog owner has had his or her dog seized by local law enforcement, and the loss of presumption of innocence automatically makes dog owners guilty.

A WHITEHALL PIT BULL BAN ORDINANCE then violates every principle of democracy and mocks our judicial process.

Dog owners are then are subject to the forfeiture of their property – their dog – prior to any hearing or disposition of the “criminal charge”, and then the final insult is to suffer the euthanization - the deliberate killing of their beloved pet by the State of Whitehall, Ohio.

A WHITEHALL PIT BULL BAN ORDINANCE: Proxy For Warrantless Search & Seizure

It should be noted that A WHITEHALL PIT BULL BAN ORDINANCE contains the proxy for warrantless searches and seizures and seriously compromises the constitutional protections to which all citizens are entitled under the guise of animal protection.

Civil liberties groups and criminal defense attorneys should be alerted to the fact that A WHITEHALL PIT BULL BAN ORDINANCE is a smokescreen to lower the threshold of evidence needed to support the issuance of search warrants.

We respectfully ask the Committee Members just what constitutes “*probable cause*” – just a law enforcement officer’s word that a pet is a “Pit Bull or “vicious”?

Lowering Thresholds of Evidence For Probable Cause

Furthermore, the issuance of any warrant would be highly questionable since:

A) **the basis for “probable cause” is nothing more than the subjective and arbitrary opinion** of breed identification of alleged “Pit Bull” breed by local animal control or police with no legal or rational basis

B) is done so in the context of reverse onus clause, thereby **eliminating the presumption of innocence**.

Lowering Thresholds of Evidence For Probable Cause – Cont’d.

In contemplating the enforcement of A WHITEHALL PIT BULL BAN ORDINANCE, there exists any number of situations that would be the basis for bypassing Due Process.

For example:

SENARIO A: Warrantless Search of Premises

The mere possession of a “Pit Bull or vicious dog” constitutes a criminal act OR the word of a law enforcement office that an animal is in need of food or water allows access to the premises.

EX: A police officer drives by a home and sees a dog in the yard. The officer (subjectively) identifies the dog as a “Pit Bull”, the presence of which is “illegal”. The dog owner is presumed guilty of a criminal act. The police officer now may access the premises and bypasses the need for a search warrant.

SCENARIO B: Warrantless Searches – Traffic Stops

Driving with a “Pit Bull” dog in a car constitutes a criminal act in that possession of a “Pit Bull” is an illegal act and transporting a “Pit Bull” is an illegal act.

EX: A police officer on highway patrol or traffic duty sees a car with a dog inside. The officer has no probable cause for a traffic stop (speeding, seat belt or other violations).The officer (subjectively) identifies the dog as a “Pit Bull”, the presence of which is “illegal”.

The dog owner is presumed guilty of a criminal act. The police officer now has “cause” for a traffic stop.

Establishment Of Unequal Protection

A WHITEHALL PIT BULL BAN ORDINANCE also sets the stage for Unequal Protection, in that owners of “targeted breeds” or mixed breed dogs that *“display the physical traits of any one or more of those breeds”*, are held to a different and higher legal standard than other dog-owning citizens, which is then subjectively and/or arbitrarily applied.

The provisions of A WHITEHALL PIT BULL BAN ORDINANCE are completely without merit, as Whitehall has not proven nor cannot prove a rational or legal basis upon which to base these provisions.

A WHITEHALL PIT BULL BAN ORDINANCE begs the question, “**Are owners of a certain type of dog entitled to any fewer Constitutional protections than owners of Golden Retrievers or Labradoodles**”?

Selective Enforcement Bias

We urge you to reconsider and reject this ordinance, since it is already quite clear that should A WHITEHALL PIT BULL BAN ORDINANCE become law, it could only be enforced selectively and subjectively.

Under A WHITEHALL PIT BULL BAN ORDINANCE, almost any medium or large dog from more than 30 different purebred dog breeds and almost any medium or large mixed breed dog could be subjectively identified by local officials as an illegal “pit bull dog”.

However, there is an even greater risk in A WHITEHALL PIT BULL BAN ORDINANCE as it relates to Unequal Protection, which is where race or ethnicity comes into the equation, and may hold the potential for the abuse of our justice system.

There is a pervasive myth, perpetuated throughout the media, that the majority of dog owners of alleged “pit bull dogs” are “gang members, criminals, and drug dealers”. **This notion is completely unsubstantiated and without merit.**

However, this viewpoint is interpreted by most to mean that “pit bull dogs” are owned by those in the minority community. It then becomes a question of which dog owners will be selectively targeted for enforcement and prosecution by local authorities and to what extent will law enforcement engage in racial profiling.

A WHITEHALL PIT BULL BAN ORDINANCE leaves the door open to abuse of powers by local law enforcement officials and creates a number of questions. For instance:

- **Will minority or poor dog owners be targeted for enforcement over non-minority or middle class dog owners?**
- **Will owners of multiple dogs or breeders be targeted for enforcement?**
- **Will A WHITEHALL PIT BULL BAN ORDINANCE be used to dispense with evidence thresholds necessary to establish probable cause and create a proxy to bypass due process?**

Civil Rights & Constitutional Issues

A WHITEHALL PIT BULL BAN ORDINANCE presents a multitude of civil rights issues and constitution challenges, including but not limited to unequal protection, violation of due process, removal of the presumption of innocence, selective enforcement, and the taking of private property.

A WHITEHALL PIT BULL BAN ORDINANCE also sets the stage for unequal protection in that owners of subjectively targeted breeds or mixed breed dogs are thus arbitrarily and subjectively held to a different and higher legal standard than other dog-owning citizens, for which the State of Whitehall, Ohio has not proven nor cannot prove a rational or legal basis.

And since dogs are considered private and valuable property, violations of the 4th, 5th and 14th amendments are of concern, as outlined in the attached report by the Centers for Disease Control and the AVMA.

Expensive Legal Challenges

A WHITEHALL PIT BULL BAN ORDINANCE, with its many issues and potential infringements of civil rights and constitutional protections, would place the State of Whitehall, Ohio, and the counties and municipalities in the state in a position of defending against what could be a multitude of lawsuits brought on behalf of dog-owning citizens.

The American Rottweiler Club respectfully points out that A WHITEHALL PIT BULL BAN ORDINANCE is fraught with issues not only with regard to public safety, but issues that make A WHITEHALL PIT BULL BAN ORDINANCE a potential minefield of expense, legal issues, unintended consequences and a waste of valuable taxpayer dollars.

Closing Thoughts

In closing, the American Rottweiler Club rejects the criminalization of responsible dog ownership, the flawed concept of outlawing a breed of dog which does not exist, and the erosion by proxy laws of the civil rights and liberties guaranteed to all citizens of the United States under the guise of public safety or animal protection.

The American Rottweiler Club, having conducted a thorough analysis of this bill, concludes that a **Whitehall Breed Ban/Pit Bull Ban Ordinance** would:

- **Criminalize dog ownership**
- **Fail to protect public health & safety**
- **Allow dogs to be arbitrarily seized and killed**
- **Create a proxy for warrant search & seizure under the guise of animal protection**
- **Deprive citizens of Due Process**
- **Violate 4th, 5th & 14th Amendments**
- **Incur liability for local, county and state governments**
- **Waste valuable tax-payer dollars**

The American Rottweiler Club urges the City of Whitehall, Ohio and the Esteemed Members of the City Council to act appropriately and responsibly to protect the public safety of its citizens by adopting and enforcing strong breed-neutral laws as recommended by the American Kennel Club, the American Veterinary Medical Association and the Centers For Disease Control.

It is our further recommendation that the City of Whitehall, Ohio focus efforts on dog bite prevention and public education efforts, as well as the effective enforcement of existing animal cruelty and animal control laws, with an emphasis on loose running dogs.

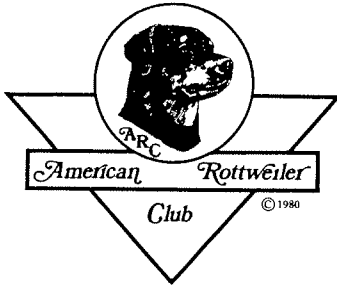
We urge the Committee Members to reject A WHITEHALL PIT BULL BAN ORDINANCE in its entirety, and not allow this dangerous and misguided piece of legislation, no matter how well- intentioned, to bring about the destruction of innocent dogs, rip families apart from their beloved pets, deprive people of their civil rights and create untold heartbreak for the dog-owning citizens of the City of Whitehall, Ohio.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeff Shaver". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jeff Shaver
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web site) www.AmRottClub.org

cc: American Rottweiler Club Board, Peter Piusz, Delegate



ADDENDUM

- EXHIBIT A:** Centers For Disease Control Special Report: Breeds of dogs involved in fatal human attacks in the United States between 1979 and 1998, JAVMA, Vol 217, No. 6, September 15, 2000
- EXHIBIT B:** A Community Approach To Dog Bite Prevention, American Veterinary Medical Association Task Force on Canine Aggression and Human-Canine Interactions, JAVMA, Vol 218, No. 11, June 1, 2001
- EXHIBIT C:** American Veterinary Medical Association Letter Regarding Misuse Of Data To Support Breed Specific Legislation