

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BATESVILLE, ARKANSAS, AMENDING THE BATESVILLE CITY CODE REGARDING VICIOUS OR DANGEROUS ANIMALS AND TO UPDATE OTHER PROVISIONS OF THE ANIMAL CONTROL SECTIONS OF THE CITY CODE, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES

WHEREAS, the City Council of the City of Batesville, recognizes the City has a great number of domesticated animals within the various neighborhoods in the City and that citizens and visitors must interact with such animals from time to time; and

WHEREAS, the City Council wishes to update the Animal Control sections of the City Code to include certain breeds of animals which have been identified as having aggressive or violent tendencies, and to update other provisions of the Animal Control sections of the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATESVILLE, ARKANSAS, THAT:

SECTION 1. Section 6.04.12 Vicious animals-quarantine required: of The Batesville Municipal Code (The Code) hereby amended as follows:

- A. Banning of specific breeds. Banned breeds of dogs are banned entirely and may not be owned or kept within the City. Banned breeds of dogs are any of the following:
- (1) American Pit Bull Terrier.
 - (2) Staffordshire Bull Terriers
 - (3) American Staffordshire Terrier.
 - (4) Any dog whose sire or dam is a dog of a breed which is defined as a banned breed under this section.
 - (5) Any dog whose owner registers, defines, admits or otherwise identifies the dog as being of a banned breed.
 - (6) Any dog conforming or substantially conforming to the breed of American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier as defined by the United Kennel Club or American Kennel Club.
 - (7) Any dog which is of the breed commonly referred to as "pit bull" and commonly recognizable and identifiable as such.
 - (8) Any vicious dog which is found at large in violation of section 6.04.04 of The Code.
- B. Animal Fighting or Attack Training. No person shall possess, harbor or maintain care or custody of any dog or animal for the purpose of animal fighting; nor shall any person train, torment, badger, bait or use any animal for the purpose of causing or encouraging the animal to attack human beings, domestic animals or livestock. This does not include accredited animal training program for police use or guard dog training.
- C. Publication. For any breed which is banned by subsection (A)(6), a copy of the standards of the American Kennel Club and the United Kennel Club shall be kept on file in triplicate in the Batesville City Clerk's office; and prior to the passage of any ban of such breed, the clerk shall advertise the incorporation by reference of the standards of such breed of dog and shall state that copies of the standards will be on file for public review in the

Clerk's office prior to the passage of the ban of such breed.

- D. All owners of banned dogs defined in this section residing in the City limits of the City of Batesville at the time of the adoption of this Ordinance shall have sixty days (60) to remove said animals from the city limits. If the prohibited animals are not removed within that time period the City of Batesville Animal Control Officer shall have the authority to take the prohibited animals into custody and cite the owner for having a prohibited animal within the city limits as defined by this section.
- E. There shall be no debarked dogs permitted in the City of Batesville.
- F. All prohibited animals taken pursuant to this Section shall be held or disposed of in accordance with Section 6.04.06 of The Code.
- G. Exceptions.
 - (1) A banned breed of dog shall not be considered owned or kept in the city if the dog is only brought into the city to a licensed doctor of veterinary medicine located in the city for the purpose of veterinary care, as is necessary for the completion of veterinary care; however, the dog at all times shall be subject to all applicable restrictions by virtue of the breed of dog also being defined as a vicious animal in section 6.04.12.
 - (2) No animal shall be declared vicious, dangerous or potentially dangerous if a domestic animal which was bitten or attacked was teasing, tormenting, abusing or assaulting the animal. No animal shall be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault or if the animal was protecting its young.
- H. Enforcement.
 - (1) It shall be duty of the office of Animal Control and Animal Services to enforce the animal laws of the State of Arkansas and the Ordinances of the City of Batesville, and such officers shall be empowered with all enforcement measures available pursuant to this section of the Batesville Municipal Code or any State or Federal Law or Constitutional provision.
- I. Grandfathering. The owner of a pit bull dog will have 30 days after passage of this Ordinance to register the animal with the Batesville Animal Control pursuant to the following criteria:
 - (1) The animal was licensed prior to the effective date of this Ordinance.
 - (2) The owner shall provide proof of rabies vaccination.
 - (3) The owner shall provide proof that the animal has been neutered to the Animal Control Office.
 - (4) The owner shall pay a license fee under this section of One Hundred Dollars (\$100.00).
 - (5) The owner shall provide proof of liability insurance on the animal in the amount of not less than One Hundred Thousand Dollars (\$100,000.00) per animal naming the City of Batesville as a interested party on said policy and provide the Office of Animal Control with proof thereof.
 - (6) No persons convicted of a felony will be permitted to have any banned breed of dog in the City of Batesville.

- (7) The owner shall, at his/her own expense, have the animal spayed or neutered and shall present to the Batesville Animal Control documentary proof from a licensed veterinarian that this sterilization has been performed. An owner of a prohibited dog may be exempted from the spay or neuter requirement if the owner produces documentation from a licensed veterinarian stating that a spay or neuter would put the dogs life at-risk.
- (8) The owner shall bring the animal to the Batesville Animal Shelter where an authorized person (Animal Control personnel) shall cause a registration number to be assigned by the department and photograph to be taken of the animal and the owner thereof. The City of Batesville Animal Control shall maintain a file containing the registration numbers, photographs, and names of the animals and the names and addresses of the owners. The owner shall immediately notify Batesville Animal Control of any change of address.

J. *Keeping of registered pit bull dogs under subsection (I) of this section.*

- (1) No owner and/or handler shall permit a registered pit bull to go outside its kennel or enclosure unless such dog is securely leashed with a leash no longer than six (6) 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, or buildings except as provided in Section 6.04.10 of The Code.
- (2) All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or fenced area, except when leashed as provided in subsection (J)(1). 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. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the City of Batesville. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (3) 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) All owners, keepers or harborers of registered pit bull 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 Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal.
- (5) All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of any incident involving an animal kept under this subsection, report the following information in writing to the City of Batesville Animal Control as required hereinafter:
 - a. The removal from the City or death of a registered pit bull

dog.

- b. The new address of a registered pit bull dog owner should the owner move within the corporate city limits.
- (6) 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 to persons who do not reside within the City and will, therefore, remove the dog outside the City. Upon notification to Batesville Animal Control that the dog has been sold to a person residing outside the City, Batesville Animal Control will make a notation in its files, and the animal will no longer be allowed in the City.
- (7) There shall be an irrebuttable presumption that any dog registered within the City as a pit bull dog or any of those breeds prohibited by the City code is, in fact, a dog subject to the requirements of this section.
- (8) It shall be unlawful for the owner, keeper or harbinger of a pit bull dog registered with the City of Batesville 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 revocation of the license of such animal, and the animals immediate impoundment and any other action by the Animal Control Officer as provided by the this title and The Code.

SECTION 2. CODIFICATION. It is the intention of the City Council of the City of Batesville that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Batesville, Arkansas, and that the Sections of this ordinance may be renumbered, relettered and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

SECTION 3. SEVERABILITY. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way effecting the validity of the other provisions of this Ordinance.

SECTION 4. REPEALER. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to extent of such conflict.

SECTION 5. EMERGENCY CLAUSE. It is hereby found by the City Council of the City of Batesville, Arkansas, that there is an immediate need to go forward with the passage of this Ordinance in order to promote and protect the health, safety, and welfare of the citizens of the City. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of public peace, health, and safety shall be in full force and effect immediately from and after its passage.

Adopted this _____ day of _____, 2010.

APPROVED:

RICK ELUMBAUGH, MAYOR

ATTEST:

DENISE M. JOHNSTON, CITY CLERK

APPROVED AS TO LEGAL FORM:

Scott M. Stalker, City Attorney