

ORDINANCE NO. 239

ORDINANCE PERTAINING TO THE KEEPING OF VICIOUS DOGS WITHIN THE CORPORATE LIMITS OF THE CITY OF MARION, ARKANSAS; PROVIDING FOR PENALTIES FOR VIOLATIONS AND FOR OTHER PURPOSES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, ARKANSAS:

Section 1. Definitions. A. "Vicious dog" means:

1. Any dog with a propensity, tendency or disposition to attack, cause injury to or otherwise endanger the safety of human beings or any domestic animal;

2. Any dog which has bitten a human being or any domestic animal without provocation; or

3. Any dog owned or harbored primarily or in part for the purpose of dog fighting, any dog trained for dog fighting or any dog which has participated in dog fighting pursuant to Ark. Code Ann. Section 5-62-120.

B. "Registered vicious dog" means:

1. One which is registered with the City Clerk in accordance with the standards set forth in Section 2 of this Ordinance.

C. "Provocation" means:

1. Trespassing on property where a vicious dog is harbored, teasing said dog, attempting to injure said dog or said dog's owner or the individual in possession thereof.

Section 2. Keeping of Vicious Dogs. From and after the effective date of this Ordinance, the following standards shall apply to the keeping of vicious dogs within the city limits of the City of Marion, Arkansas, whether such dog is within the city limits on the effective date of this Ordinance or so exists at a future date:

A. Registration Requirements. Within thirty (30) days from the effective date of this Ordinance or within thirty (30) days from the date any dog becomes a vicious dog or any vicious dog is born within or brought into the city, the owner of said vicious dog shall register it as a vicious dog with the City Clerk on such registration forms as may be prepared by the City Clerk.

B. Leash and Muzzle. No person shall permit a vicious 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 vicious dog to be kept on a chain, rope or

other type of leash outside its kennel or pen unless a person over the age of fourteen (14) 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 vicious dogs on a leash outside the animal's kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

C. Confinement. All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel or structure which must have secure sides and a secure top attached to the sides. All structures used to confine vicious 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 not less than two (2) feet. All structures erected to house vicious 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.

D. Confinement Indoors. No vicious dog may be kept on a porch, patio or in any part of 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.

E. Signs. All owners, keepers or harborers of vicious dogs within the city shall within thirty (30) days of the effective date of this Ordinance or within thirty (30) days from the date any dog becomes a vicious dog or any such vicious dog is brought into the City of Marion 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 shall be posted on the kennel or pen of such animal.

F. Insurance. All owners, keepers or harborers of vicious dogs must within thirty (30) days of the effective date of this Ordinance or within thirty (30) days from the date any dog becomes a vicious dog or any vicious dog is brought into the City

of Marion provide proof to the City Clerk of the City of Marion of public liability insurance in the amount of \$100,000.00 for each incident for bodily injury to or death of any person or persons, for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Said owner shall provide the City Clerk with a notarized copy of the declaration page of said insurance policy on an annual basis.

G. Identification Photographs. All owners, keepers or harborers of vicious dogs must within thirty (30) days of the effective date of this Ordinance or within thirty (30) days from the date any dog becomes a vicious dog or any vicious dog is brought into the city provide to the City Clerk two color photographs of the animal clearly showing the color and approximate size of the animal.

H. Reporting Requirement. All owners, keepers or harborers of a vicious dog must report the following information in writing to the Marion City Clerk within thirty (30) days of the removal from the city or death of a vicious dog; the birth of offspring of a vicious dog or the change of address of the owner of a vicious dog within the city limits: (a) the name and address of the owner; (b) the date of the removal from the city or death of a vicious dog, the birth of offspring of a vicious dog or the date the owner changed his address within the city limits; (c) the type of incident required to be reported whether it be the removal from the city or death of a vicious dog, the birth of offspring of a vicious dog or a change of address of the owner of a vicious dog.

I. Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a vicious dog within the city to any person within the city unless the recipient of said vicious dog first complies with the registration and other requirements provided herein.

J. Rebuttable Presumption. There shall be a rebuttable presumption that any dog registered with the city as a vicious dog is in fact a dog subject to the requirements of this Ordinance.

K. Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a vicious dog within the City of Marion 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 the Ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the registration of such animal, if any, resulting 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, be fined a sum not less than \$100.00 and not more than \$500.00. When a fine shall be imposed pursuant to this Ordinance and it is not paid, the defendant may be required to show cause why he should not be imprisoned for non-payment. Unless the defendant shows that his default was not attributable to a purposeful refusal to obey the sentence of the Court or to a failure on his part to make a good faith effort to obtain the funds required for payment, the Court may order the defendant imprisoned until the fine and costs are paid as authorized by law. In addition, the Court shall order the registration of the subject vicious dog revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the Court may find the defendant 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.

Section 3. 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 effect the validity of the remaining portions of this Ordinance.

PASSED AND APPROVED, this 23 day of October, 1990.

E. W. Bigger
E. W. BIGGER, Mayor

ATTEST:

John Baerette Jr.
City Clerk

ORDINANCE NO. 525

**AN ORDINANCE AMENDENDING ORDINANCE NO. 239
PERTAINING TO KEEPING OF VICIOUS DOGS WITHIN
THE INCORPORATED CITY LIMITS OF MARION, ARKANSAS.**

BE IT ORDAINED BY THE CITY COUNCIL OF MARION, ARKANSAS;

1. That the City Council of the City of Marion, Arkansas has determined that certain breeds of dogs fall within the definition of "vicious dogs" as defined in Ordinance No. 239 per se.

2. That the City Council of the City of Marion, Arkansas has determined that the Pit Bull Terrier or mixed Pit Bull Terrier breed of dogs fall within the definition of vicious dogs as set forth in Ordinance No. 239 and any person or entity owning or housing Pit Bull Terrier or mixed Pit Bull Terrier breeds within the corporate city limits of the City of Marion must comply with all the requirements set forth in Ordinance No. 239 regarding vicious dogs.

For purpose of this Ordinance Pit Bull Terriers and/or mixed Pitt Bull Terriers are defined as follows:

- A. American Pit Bull Terrier;
 - B. Staffordshire Bull Terrier;
 - C. American Staffordshire Terrier;
 - D. Any dog whose owner registers, defines, admits, or otherwise identifies said dog as being of a banned breed;
 - E. Any dog conforming, or substantially conforming, to the breed of American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier as defined by the United Kennel Club or American Kennel Club; or
 - F. Any dog which is of the breed commonly referred to as "pit bull" and commonly recognizable and identifiable as such.
3. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to

the extent of any such conflict.

Dated and approved this FEBRUARY day of 27th, 2011.

ATTEST:


MAYOR


CITY CLERK