

ORDINANCE NO. 92-99

AN ORDINANCE PERTAINING TO DANGEROUS DOGS,
QUARANTINE OF BITING ANIMALS: PROVIDING FOR
PENALTY AND AN EFFECTIVE DATE:

WHEREAS, the passage, promulgation, and enforcement of the provisions herein contained are determined necessary and advisable for the promotion of the general welfare of the community to carry out the governmental powers delegated to and possessed by the City of Kress; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KRESS, TEXAS;

SECTION 1.: A. Definitions.

Dangerous Dog: Any dog shall be deemed dangerous upon the occurrence of any of the following events:

- (1) An unprovoked attack on a person causing bodily injury by a dog outside a secure enclosure in which the animal is kept;
- (2) An unprovoked act of aggression by a dog outside a secure enclosure which causes a person to reasonably believe the dog will attack and cause bodily injury.

B. Section 2. Dangerous dogs.

- (a) As a public safety requirement, it shall be unlawful for any person to keep or harbor any Dangerous Dog within the corporate limits of the City of Kress without complying with the Texas Health and Safety Code, Section 822.041 -822.047 (Vernon's Supp. 1991).
- (b) Complaint. When a person reports a Dangerous Dog to the Animal Control Authorities, the Authority shall investigate the complaint and notify the owner of the report. Any complaint filed concerning a Dangerous Dog shall contain a sworn, written statement to the City of Kress's Animal control Authority with the following information:
 - (1) Complainant's and witnesses's names, addresses and telephone numbers;

- (2) Dates, times and locations of incidents involving the dog;
- (3) Dog's description;
- (4) Dog owner's name, address and telephone number, if available;
- (5) A statement regarding the facts of the complaint;
- (6) A statement of the dog's exhibited dangerous propensities in past conduct, if known; and
- (7) Other facts and circumstances concerning the incident.

(c) Notice. After a sworn complaint has been filed and an investigation has been completed, if the Animal Control Authorities determine that the dog which is the subject of the investigation is a Dangerous Dog, the Animal Control Authority will notify the animal's owner by certified mail, return receipt requested, that a determination has been made that the dog is a Dangerous Dog. In lieu of notice by certified mail, the Animal Control Authority may elect to have the notice personally served by a police officer of the City of Kress.

(d) Appeal. The owner may appeal the determination of the Animal Control Authority to the Municipal Court within thirty (30) days of the determination for a hearing de novo. If the Municipal Court Clerk receives a written appeal notice within thirty (30) days of the determination notice, that Animal Control Authority's determination that the dog should be considered a Dangerous Dog shall be suspended pending the Municipal Court Judge's final decision. The Animal Control Authority's determination may be affirmed, reversed or modified.

The Animal Control Authority or a representative shall furnish the Municipal Court Judge with all reports, memoranda and other tangible evidence received by the Animal Control Authority, as well as a summary of the evidence and the Animal Control Authority's findings. The Municipal Court Judge's decision will be made by a de novo hearing with the appeal of such judgment being in the same manner as in other civil cases. Each day following the finding will constitute a violation of the ordinance if the owner fails to comply with State law requirements for Dangerous Dogs.

- (e) The Municipal Court Judge may also require the attendance of complainant, any known witnesses, the animal owner against whom the complaint was filed, and the Animal Control Authority or his representative. At this appeals hearing, the City of Kress shall be represented by the City Attorney or an Assistant.

C. Section 3. Requirements for owner of Dangerous Dog.

- (a) Not later than the 30th day after a person learns that the person is the owner of Dangerous Dog, the person shall:
- (1) register the Dangerous Dog with the Animal Control Authority for the area in which the dog is kept;
 - (2) restrain the Dangerous Dog at all times on a leash in the immediate control of a person or in a secure enclosure; and
 - (3) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000.00 to cover damages resulting from an attack by the Dangerous Dog causing bodily injury to a person.
- (b) For purposes of this section, a person learns that the person is the owner of a Dangerous Dog when:
- (1) the owner knows of an attack described in Section 8.041(2)(A), Texas Health and Safety Code; or
 - (2) the owner knows of conduct by the dog described in Section 822.041(2)(B), Texas Health and Safety Code; or
 - (3) the owner is informed by the Animal Control Authority that a determination has been made that the dog is a Dangerous Dog.

D. SECTION 4: Registration.

- (a) An Animal Control Authority for the area in which the dog is kept shall annually register a Dangerous Dog if the owner:
- (1) presents proof of:
 - (A) liability insurance or financial responsibility, as required by Section 822.042, Texas Health and Safety Code;
 - (B) current rabies vaccination of the Dangerous Dog; and

(C) the secure enclosure in which the Dangerous Dog will be kept; and

(2) pays and annual registration fee of \$50.00.

- (b) The Animal Control Authority shall provide to the owner registering a Dangerous Dog a registration tag. The owner must place the tag on the dog's collar.
- (c) If an owner of a registered Dangerous Dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the Animal Control Authority for the area in which the new address is located. On presentation by the current owner of the Dangerous Dog's prior registration tag and payment of a \$25.00 fee, the Animal Control Authority shall issue a new registration tag to be placed on the Dangerous Dog's collar.
- (d) An owner of a registered Dangerous Dog shall notify the office in which the Dangerous Dog was registered of any attacks the Dangerous Dog makes on people.
- (e) If the owner of a Dangerous Dog fails to register the dog as required by this Section, such failure shall constitute a Class C misdemeanor punishable by a fine not exceed \$500.00.

E. SECTION 5: ATTACK BY DANGEROUS DOG.

- (a) A person commits an offense if the person is the owner of a Dangerous Dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.
- (b) An offense under this section is a Class C misdemeanor.
- (c) If a person is found guilty of an offense under this section, the court may order the Dangerous Dog destroyed by a person listed in Section 822.003, Texas Health and Safety Code.
- (d) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000.00. The City Attorney or an assistant may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the City of Kress.

F. SECTION 6: AMENDMENT AND REPEAL.

91.49 (c) Code of Ordinances is repealed and re-enacted as follows:

(C.) Home quarantine may be approved by the Animal Control Authority where all of the following requirements are met:

- a. The animal owner is a resident of Kress and has a facility in the city limits to provide absolute security and isolation for the animal.
If the owner of a biting animal fails to keep the animal so confined, an offense shall have been committed.
- b. The owner of the biting animal agrees that he will have the animal inspected by a licensed veterinarian on the first day of isolation and on the day immediately following the ten-day isolation period. The owner further agrees to furnish the Animal Control Authority with a certificate of health showing the animal to be free of rabies. If the owner of the biting animal fails to have the Animal inspected on the first day of and on the day immediately following this ten-day observation period as required, an offense shall have been committed.
- c. The biting animal was currently vaccinated and was not at large at the time of the bite.
- d. If an animal dies while in home quarantine, the Animal Control Authority shall be notified immediately, and the animal will be surrendered to the Animal Control Authority for testing.
- e. Failure to comply with the home observation requirements shall constitute an offense.


SECTION 5. A violation of any provision of this ordinance shall constitute an offense punishable by a fine not to exceed Five Hundred Dollars (500.00). Each day a violation exists shall constitute a separate offense.

This ordinance shall be effective on and after its adoption and publication as required by law.

INTRODUCED ON July 12, 1999, and Passed
AND ADOPTED ON August 2, 1999, by the City
Commission of the City of Kress, Texas.

ATTEST:


Jean George, City Clerk


Louise Kirk Mayor

Publication Dates August 5 & 12, 1999