

**ORDINANCE NO. O-2019-98**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 14 OF THE TYLER CITY CODE TO ADD NEW DEFINITIONS OF “ADEQUATE FOOD, WATER, AND SHELTER;” “NECESSARY VETERINARY CARE;” AND “SANITARY CONDITIONS” TO SECTION 14-1; AND ADDING NEW SECTION CREATING THE CLASS C MISDEMEANOR OFFENSE OF “ANIMAL NEGLECT” WHICH HOLDS PERSONS IN CONTROL OF ANIMALS RESPONSIBLE FOR PROVIDING CONDITIONS TO ENSURE PROPER ANIMAL CARE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, it is the intent of the City Council to protect the public health, safety, and welfare; and

**WHEREAS**, that intent to protect extends to all inhabitants, including pet animals living in Tyler; and

**WHEREAS**, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, Texas Local Government Code Sec. 51.072(a) states that a home-rule municipality has full power of self-government; and

**WHEREAS**, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

**WHEREAS**, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

**WHEREAS**, current state law does not address animal neglect related definitions or violations except to allow for notices to be provided or for the filing felony animal cruelty charges; and

**WHEREAS**, Tyler’s Animal Control Officers desire more flexibility and discretion in assisting animals who are being neglected by way of having inadequate food, water and/or shelter, not receiving necessary veterinary care, and/or not being provided with sanitary living conditions; and

**WHEREAS**, By including definitions for *adequate food, water, and shelter; necessary veterinary care; and sanitary conditions*, and providing for violations of these standards of care, the Animal Control Officers will have additional options for assisting animals in need; and;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That Tyler City Code Chapter 14, "Animals", Article I., "In General", is hereby amended by amending Section 14-1 to read as follows:

### **Sec. 14-1 Definitions**

*Adequate Food* means a sufficient quantity of non-contaminated and nutritionally healthy sustenance that is appropriate to the species, breed, size, age, and health of the animal, or at the direction of a licensed veterinarian, which is sufficient to prevent starvation, malnutrition, or risk to the animal's health. Garbage, spoiled, rancid, or contaminated food is not adequate food.

*Adequate Shelter* means a protective covering for an animal that is of adequate size and provides adequate protection to maintain the animal in a state of good health, and that prevents pain, suffering, or significant risk to the animal's health. Adequate shelter shall consist of a completely enclosed structure with at least three solid sides with a door opening on the fourth side, a constructed floor, and a roof. It should also be clean, dry, and compatible with current weather conditions, in addition to age, size, species, breed, and condition of the animal. The structure should be of sufficient size to allow the animal to stand, turn around, lie down, and go in and out of the structure comfortably.

*Adequate Water* means clear, drinkable water in adequate supply. Examples of inadequate water include, but are not limited to: snow, ice, and rancid/contaminated water.

*Animal* means any warm-blooded vertebrate creature, domestic or wild, excluding the human species.

*Astray or Stray* means any animal running free or otherwise without physical or other restraint whether on or off the premises of its owner.

*Cat* means any domesticated member of the family felis catus.

*Dog* means a domesticated member of the family canidae but shall not include a wolf, jackal, fox, or other wild animal of this family.

*Fowl* means any heavy bodied, terrestrial bird of the order Galliformes, including but not limited to chickens, ducks, geese, pheasants, turkeys, grouse, guineas, or other common domestic fowl, but not including caged pet birds kept inside a building and otherwise not a bird defined as fowl herein.

*Livestock* means any horse, swine, cattle, sheep, goat, mule, jack, jenny, emu, ostrich or rhea.

*Owner* means any person, corporation, partnership, trust, or association or other entity owning, keeping, or harboring an animal or who has possession or control or has the responsibility to control an animal.

*Necessary Veterinary Care* means veterinary medical attention appropriate to the circumstances, whenever an animal is known or suspected to have suffered an injury, accidental or deliberate, or exhibits signs of disease process such as shock, temperature fluctuation, tremors, swelling, broken bones, open wounds, inability to eat or drink, blistering, irregular or abnormal breathing, partial or total paralysis, abnormal discharge or bleeding, mange, or other signs of health problems.

*Person* means any individual, corporation, partnership, trust, association or other legal entity.

*Quarantine* means strict confinement under restraint by closed cage or paddock or on the premises of the owner in any other manner approved by the Local Rabies Control Authority or designee or at a facility approved by the Local Rabies Control Authority or designee.

*Rabies* means an acute viral disease of human and animal affecting the central nervous system usually transmitted through the bite of a rabid animal and/or including the condition commonly known as rabies.

*Reptile* means any cold-blooded vertebrate of the class reptila, such as lizards, snakes, etc.; of particular concern are those that are poisonous, constrictors, and/or carnivores.

*Restraint*, except as otherwise provided, an animal shall be deemed to be *restrained* when it is:

1. Confined on the premises of the owner within a fence or enclosure; or
2. Fastened or picketed by a lead, rope, or chain so as to keep the animal on the premises of the owner; or

3. Under the control of a person by means of a harness, leash, chain, or similar device attended by a person of sufficient strength to prevent the animal from running at large; or

4. On or within a vehicle being driven or parked if the owner is present to control the animal from jumping or falling out; or

5. At heel beside or otherwise controlled and obedient to a person competent to restrain the animal by command.

*Sanitary Conditions* means an animal living space, shelter, or exercise area that is not contaminated by health hazards, irritants, pollutants, items, or conditions that endanger or pose a risk to an animal's health. (Ord. No. O-96-13, 2-21-96)(Ord. No. 0-2014-85; 9/24/14)(Ord. No. O-2019-98; 11/13/19)

**PART 2:** That Tyler City Code Chapter 14, "Animals", Article II, "Prohibited Acts", is hereby amended by adding new Section 14-12, "Animal Neglect," to read as follows:

**Sec. 14-12 Animal Neglect**

a. Any Animal or Livestock Owner who fails to provide Adequate Water, Adequate Food, Adequate Shelter, Sanitary Conditions, or Necessary Veterinary Care shall be deemed in violation of this section.


b. Any animal control officer or other officer empowered to act by law may, at the officer's sole discretion, impound any animal found to neglected, as defined by this section.

c. Violations of this section may result in the filing of Class C misdemeanor criminal Animal Neglect citations; written warnings; or filing higher level criminal offenses with the District Attorney's office. (Ord. No. O-2019-98; 11/13/19)



**PART 3:** That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.


**PART 4:** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, or later. The effective date of this Ordinance shall be November 20, 2019.

**PASSED AND APPROVED** this 13th day of November, A. D., 2019.

  
MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

  
  
CASSANDRA BRAGER, CITY CLERK  
TEXAS

APPROVED:  
  
DEBORAH G. PULLUM,  
CITY ATTORNEY