

ORDINANCE NO. 1619

AN ORDINANCE AMENDING CHAPTER 66 OF THE CODE OF ORDINANCES PERTAINING TO ZONING; SPECIFICALLY AMENDING ARTICLE 1, SECTION 66-1 "DEFINITIONS"; ARTICLE III, SECTION 66-271 "SINGLE-FAMILY DWELLING DISTRICT" and ARTICLE III, SECTION 66-275 "PARKING REGULATIONS"; PROVIDING FOR NOTICE TO COMPLY; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE ARE CUMULATIVE OF ALL OTHER ORDINANCES COVERING THE SAME SUBJECT MATTER, BUT EXPRESSLY REPEALING THOSE IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Andrews (the "Council") has the authority to take action to protect the public welfare, health and safety of its citizens; and

WHEREAS, an amendment to off street parking requirements is necessary, requiring 2 improved parking spaces rather than 1, also prohibiting the parking of vehicles in front or side yard setbacks on unimproved surfaces, to ease congestion on residential streets and to preserve the integrity of residential neighborhoods.

WHEREAS, the City of Andrews (the "City") has received complaints from residents that single family homes are being utilized in a congregate residential manner that is inconsistent with the environment for which residential neighborhoods were created and designed; and,

WHEREAS, the rental or use of dwelling for employees in single family homes to more than three unrelated individuals constitutes a commercial activity of multi-family rentals; and

WHEREAS, most residential neighborhoods are not designed for situations in which significant numbers of adults live in the same home in terms of garage space, street parking, storage space, and other factors; and

WHEREAS, problems arising from numerous unrelated adults co-habiting in the same single-family home cause excessive night-time noise, additional neighborhood traffic, and a lack of street parking; and;

WHEREAS, the purpose of this Ordinance is to preserve the residential character of the City's residential neighborhoods; and

WHEREAS, the City of Andrews Code of Ordinances does not permit Boarding Houses, Rooming Houses, or Lodging Houses (Camp Houses or any other type facility/structure that might fit under such heading) in R-3 (IBC) single-family residential zones unless a Special Use Permit is issued, and the City desires to treat single family homes that are being used as Congregate Residences in a similar fashion;

NOW, THEREFORE, be it ordained by the City Council of City of Andrews, Texas:

I.

SECTION 66-1 Definitions of the City of Andrews Code of Ordinances shall be amended to read as follows:

"AFFINITY" means relationship, especially by marriage as opposed to blood ties, and shall also include domestic partnerships.

"CONGREGATE RESIDENCE" means any building or portion thereof, that contains facilities for living, sleeping and sanitation and may include facilities for eating and cooking for occupancy by other than a family, and shall include any single-family dwelling in which the people meet the relationship requirements for a single-family dwelling, but is also used for dwelling by any unrelated person or persons which causes the occupancy to exceed one (1) person per two-hundred (200) square feet of gross livable floor space. (IBC) A "Congregate Residence" does not require a property owner, or an agent, or a rental manager, to be in residence.

"DWELLING" means a building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

“DWELLING, SINGLE-FAMILY” (formerly “Dwelling, one-family”) means a detached dwelling unit in which only one dwelling unit is allowed per platted lot, and designed for occupancy by one person or one family. In cases where the dwelling unit can provide the required occupancy load of one (1) person per two-hundred (200) square feet of gross livable floor space, such dwelling can include no more than two individuals living within the unit who are unrelated by consanguinity, legal adoption, or by affinity.

“FAMILY” means two (2) or more people related by consanguinity, legal adoption, or by affinity. Further defined as follows, regardless of actual or perceived sexual orientation, gender identity, or legal marital status:

- child, parent, or grandparent;
 - a child is defined as a blood or marriage related son, stepson, daughter, or stepdaughter;
 - a parent or grandparent includes a step-parent/grandparent or foster parent/grandparent;
- spouse or domestic partner;
- legally adopted son or daughter, including a child who is placed by an authorized agency for legal adoption;
- foster child;
- brother, stepbrother;
- sister, stepsister;
- nephew;
- niece;
- uncle;
- aunt; or
- son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

As defined by the US Department of Housing and Urban Development FHA Single Family Housing Policy Handbook Glossary - <https://www.hud.gov/sites/documents/40001GAHSGH.PDF>

II

Section 66-271, Use Regulations shall be amended as follows:

The land and buildings in the single-family dwelling district shall be used for the following purposes:

- (1) Single-family dwellings with a maximum of one dwelling per platted lot.

III

Section 66-275, Parking regulations shall be amended as follows:

- (a) There shall be a minimum two off-street parking spaces for each dwelling unit in the single-family dwelling district. This space may be within the required front yard with the following guidelines:
 - (1) A minimum of 25 percent of front yard must be reserved for landscaping purposes.
 - (2) Improved surfaces include concrete, paving material, pavers, rock, pea gravel or crushed granite that is clearly not part of the landscaping (as separated with a border).
 - (3) Parking shall not exceed 75 percent of required front yard.
 - (4) Parking allowed only on improved surface in front or side yard setbacks, and shall not encroach on pedestrian right-of-ways (sidewalk).

IV

Staff from Inspection, Code or Law Enforcement Departments are hereby authorized to investigate complaints on any and all such buildings suspected of being in violation of this ordinance. Prima facie proof of occupancy of a dwelling unit by more than three unrelated persons is established in any prosecution for violation of this section if it is shown that the same four or more vehicles with registrations to persons having different surnames and addresses were parked overnight at the dwelling unit a majority of nights in any 21 day period. This establishment of a prima facie level of proof in this subsection does not preclude a showing of “occupancy” of a dwelling unit by a person in any other manner.

V

Whenever a violation of this ordinance has been discovered and reported by staff from the Inspection, Code or Law Enforcement Department, the owner of the premise involved, and the occupant, if any, shall be given written notification of the nature of the violation.

VI

Any person, firm or corporation who shall own or maintain any home in a Single-Family Dwelling District that is being used as a Congregate Residence as defined herein, and who shall, after notice as provided in Section V hereof, fail to correct the problem and comply with stipulations governing Single-Family Dwelling District, shall be guilty of a misdemeanor, and upon conviction shall be fined no more than \$500 per offense. Each and every day a violation exists shall constitute a separate and distinct offense. In the event that the owner or occupant of any residence found in violation be a corporation, president, vice president, secretary and treasurer of such corporation, or the manager, agent or employees of such corporation shall also be severally liable for the penalties herein provided.

VII

The provisions of this ordinance are to be cumulative of all other ordinances, or parts thereof, governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

VIII

If any section, sub-section, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Andrews hereby declares that it would have passed this ordinance and each section, sub-section, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared unconstitutional or invalid.

IX

The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance, together with the penalty provision contained herein, in the manner and for the length of time prescribed by law.

X

This ordinance shall take effect and be in force from and after its passage upon second reading.

PASSED AND APPROVED ON FIRST READING THIS THE 25th DAY OF OCTOBER 2012.

PASSED AND ADOPTED ON SECOND READING THIS THE 8th DAY OF NOVEMBER 2018.

Flora Braly, Mayor

ATTEST:

Sara Copeland, City Secretary