

**ORDINANCE NO. 1597**

**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE II OF THE CODE OF ORDINANCES PERTAINING TO DOGS AND CATS; AND SPECIFICALLY AMENDING SECTION 6-42 "DOGS AT LARGE", SECTION 6-44 "VICIOUS DOGS" AND SECTION 6-101 THRU 6-105 "IMPOUNDMENT"**

WHEREAS, the City Council of the City of Andrews is concerned about the threat to citizens as the result of dogs at large within the city; and

WHEREAS, it is the responsibility of the City Council to protect the health, safety, and welfare of its citizens; and

WHEREAS, the City Council desires to impose strict penalties for those persons who allow their dogs to roam at large to the possible fear and threat of its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL of the City of Andrews, Texas that Chapter 6, Article II of the Code of Ordinances pertaining to dogs and cats is hereby amended as follows:

Section 6-42. Dogs at large.

(a) It shall be unlawful for any person owning or having control over or having custody of any tagged dog to permit or allow such dog to run or be at large upon any unfenced lot, tract or parcel of public or privately owned land not owned by the owner of such dog within the corporate city limits. A person who permits or allows a dog to run or be at large upon any unfenced lot, tract or parcel of public or privately owned land not owned by the owner of such dog shall be subject to the "Reclaim/Impoundment" provision provided further herein, including the payment of a Reclaim/Impoundment fee. Special consideration will be given to animals that have a current license or dog tag prior to transport to the animal shelter whenever possible on occasions of first time "impoundments" (not repeat offenders). The animal control officer will make an attempt to contact and return licensed pets to owners from information provided on a current license tag; provided, however, said owner shall still be billed a Reclaim/Impoundment fee by the City of Andrews.

(b) In addition to the payment of a Reclaim/Impoundment fee, enforcement of this section shall be by a sworn complaint, filed in municipal court, by a peace officer, the animal warden or by any citizen of the city against the owner of the tagged dog that violates this section.

(c) Penalty, upon conviction in municipal court, for violation of this section shall be a minimum fine of \$100.00.

(d) The municipal court judge shall have the authority to order any dog or cat (tagged or not tagged) which violates this section to be impounded, and the animal control officer, deputy or police officer is thereby authorized to enter upon any lot, tract, or parcel of land for the purpose of seizing and impounding such animal.

(e) Evidence of a culpable mental state is not required to prove an animal offense under this Section. It is hereby declared that, for all offenses under this Section, the culpable mental state required by Section 6.02 of the Texas Penal Code is expressly and specifically negated and clearly dispensed with.

Sec. 6-43. Animal bites.

(a) Whenever any dog, cat or other domesticated animal has bitten, scratched, or otherwise attacked any person within the corporate city limits, the animal shall be confined in such place as the chief of police may direct and for such period of observation as may be necessary, unless such animal is too vicious and dangerous to be impounded safely, in which case it may be killed and the head shipped to the state laboratory of hygiene for rabies examination.

(b) Whenever any dog or cat or other animal bites, scratches, or otherwise attacks any person within the corporate city limits, the owner of the animal shall immediately notify the department of police. The chief of police shall order that the animal be confined and held at the owner's expense for a period of ten days in isolation approved by the chief of police, if practical. However, if such dog or cat or other animal cannot be safely captured or impounded, it may be slain by any police

officer. The charge for impoundment of a quarantined animal in the City's shelter shall be \$20.00 per day.

#### Sec. 6-44. Vicious dogs or cats.

If any dog or cat within the city shall bite, scratch, or otherwise attack a person, the person so attacked not at the time trespassing upon the property of the owner of person having control of such dog or cat, or if it cannot be proved beyond a reasonable doubt that the person so attacked was provoking or teasing such dog or cat, the municipal court shall have the authority to hold a hearing. If such court shall determine at such hearing that such dog or cat is vicious or dangerous to persons or other animals, the court may order that such dog or cat be:

- (1) Kept muzzled;
- (2) Kept within a sufficient enclosure
- (3) Delivered to the animal control officer and destroyed by him; or
- (4) Any other action(s) allowed by State law

Further, the court shall order the director of animal services to immediately seize the dangerous dog unless the dangerous dog is already in the animal services division's possession and order the owner of the dangerous to do the following and provide proof to the court, not later than the seventh day after the court has decided that the owner of a dangerous dog:

- a) Register the dangerous dog with the animal services division and pays a \$500.00 yearly registration fee;
- b) Present proof of the secure enclosure in which the dangerous dog will be kept;
- c) Present proof of a current animal license from the city of the dangerous dog;
- d) Present proof of current rabies vaccination for the dangerous dog;
- e) Obtain liability insurance coverage in an amount of at least \$1,000,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person; the insurance shall name the City of Andrews as an additional insured;
- f) Present proof that the owner has paid all costs or fees assessed by the City of Andrews related to the seizure and impoundment of the dangerous dog. This shall include a \$50.00 per day dangerous dog boarding/quarantine fee;
- g) The court shall order the animal services division to humanely destroy the dangerous dog if the owner has not complied with subsection a through f above not later than the seventh (7<sup>th</sup>) calendar day after the date on which the dog was declared to be a dangerous dog.

An existing owner of a dangerous dog, as defined herein, shall comply with the new registration fee and enhanced liability insurance requirements within 90 days of the effective date of this ordinance.

#### Sec. 6-45. Dogs disturbing the peace.

It shall be unlawful for any person to harbor or keep on his premises or in or about his premises or premises under his control any dog which, by loud or unusual barking or howling, shall cause the peace and quiet of the neighborhood or the occupants of the adjacent premises to be disturbed or reasonably liable to be disturbed.

#### Sec. 6-46. Surrendered dogs.

A person who no longer desires to own or possess a dog or cat may surrender the dog or cat to the City of Andrews. The charge for handling a surrendered animal shall be \$25.00.

#### Division 3 Reclaim/Impoundment (retitled)

#### Sec. 102. Redemption before sale.

- (a) The owner of any registered dog or cat impounded may redeem such dog or cat at any time prior to sale or destruction by the payment of the Reclaim/Impoundment fee provided below and on file in the Police Chief's office.

(b) The owner of any unregistered dog or cat impounded may redeem such dog or cat at any time prior to the sale or destruction by having such dog or cat duly registered and vaccinated against rabies and by the payment of the Reclaim/Impoundment fee provided below and on file in the Police Chief's office.

(c) The fee schedule for Reclaim/Impoundment is as follows:

1 <sup>st</sup> Occurrence	\$ 50.00
2 <sup>nd</sup> Occurrence	\$200.00
3 <sup>rd</sup> Occurrence	\$400.00
4 <sup>th</sup> or more Occurrence	\$500.00

The Reclaim/Impoundment fee shall cover the time and expense of the animal control officer, peace officers and/or other city employees in finding, handling, feeding and boarding. Said fee is payable notwithstanding if the animal is/was ever physically impounded at the animal shelter.

The amendments of this ordinance shall be effective January 1, 2018.

PASSED AND APPROVED this the 9th day of November 2017.

PASSED AND ADOPTED this the 14th day of December 2017.

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Flora Braly, Mayor

ATTEST:

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Sara Copeland, City Secretary