

BILL NO. 14-023

ORDINANCE NO. 4678

FIRST READING 11/4/14

SECOND READING 11/18/14

**AN ORDINANCE AMENDING CHAPTER 16, SECTION 170 OF THE HANNIBAL CITY CODE
RELATIVE TO HABITABLE STRUCTURES USED FOR THE ILLEGAL SALE OR USE OF
CONTROLLED SUBSTANCES**

WHEREAS, in August 2010, the City of Hannibal enacted an Ordinance establishing penalties against owners of habitable structures where the illegal sale or use of controlled substances occurs, and

WHEREAS, despite said Ordinance, the illegal manufacture, sale, and use of controlled substances remains a significant problem in Hannibal, resulting in greater instances of criminal activity and neighborhood instability for Hannibal residents, and

WHEREAS, it is the desire of the City Council to amend said Ordinance to provide for greater effectiveness combating the illegal manufacture, sale, and use of controlled substances in Hannibal and its residential neighborhoods.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HANNIBAL, MISSOURI:

SECTION ONE: Section 16-170 of the Hannibal City Code is hereby repealed in its entirety and replaced with a new Section 16-170 to read as follows:

Sec. 16-170. Places used for illegal [manufacture], sale, and use of controlled substances.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Controlled substances means drugs, substances, or immediate precursors in schedules I through V listed in RSMo 195.005 - 195.425.

Inhabitable structure means a ship, trailer, sleeping car, airplane, or other vehicle or structure:

- (1) Where any person lives or carries on business or other call;
- (2) Where people assemble for purposes of business, government, education, religion, entertainment or public transportation; or
- (3) Which is used for overnight accommodation of persons. Any such vehicle or structure is "inhabitable" regardless of whether a person is actually present.

(b) Any room, building, structure or inhabitable structure which is used for the illegal [manufacture], use, keeping, or selling of controlled substances is a public nuisance. It shall be unlawful for any person to keep or maintain such a public nuisance.

(c) In addition to any other municipal ordinance prosecutions, the city prosecutor may by information charge the owner or the occupant, or both the owner and the occupant of the room, building, structure or inhabitable structure, with the violation of keeping or maintaining a public nuisance.

(d) Notwithstanding the other sections of this chapter, if the city manager or the city manager's designee finds that the owner of the room, building, structure or inhabitable structure knew that the premises were being

used for the illegal [manufacture], use, keeping or selling of controlled substances, the city manager or the city manager's designee may order that the premises shall not be occupied or used for such period as the city manager or the city manager's designee may determine, for a period not to exceed 90 days for a first offense, 180 days for a second offense, and not to exceed one year for a third and all prior offenses.

It shall be a prima facia case that the owner had knowledge of the offense if there have been three or more arrests for drug-related offenses on the property within any 24-month period, [or if there has been one or more arrests during any time period for a drug-related offenses on the property and one of the tenants is a person who has previously been evicted under the authority of RSMo 441.740, as reflected by the public record available at City Hall.]

- (e) Notice of the city manager's order shall be delivered by regular mail to the owner's address of record as shown by the records of the city collector. Service shall be considered effective upon delivery of the notice to the U.S. Postal System, with sufficient postage for regular mail delivery. Said order shall take effect 11 days after service, unless a proper notice of appeal is filed as provided herein.
- (f) Any person wishing to appeal an order of non-occupancy under this section shall file a written request for appeal with the city clerk no later than ten (10) days after the date of service as provided herein. Appeals shall be taken directly to the city council, and such appeals shall be heard within 60 days of the filing of the request for appeal.
- (g) No portion of this section shall be construed to relieve the property owner of compliance with all property maintenance and nuisance codes during any period of time under which occupancy of the property shall be prohibited.
- (h) It is unlawful for any person to occupy or use or to permit the occupancy or use of any room, building, structure or inhabitable structure in violation of any order issued by the city manager or the city manager's designee pursuant to this section.

SECTION TWO: All ordinances in conflict herewith are hereby repealed.

SECTION THREE: It hereby is declared to be the intention of the City Council that each and every part, portion and sub-portion of this Ordinance shall be separate and severable from each and every other part, portion or sub-portion hereof and that the City Council intends to adopt each said part, portion or sub-portion separately and independently of any other part, portion or sub-portion. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, portions and sub-portions shall be and remain in full force and effect.

SECTION FOUR: This ordinance shall become effective immediately upon its adoption and approval.

Adopted this 18th day of November, 2014.

Approved this 18th day of November, 2014.



Roy G. Hark, Mayor

ATTEST:



Angelica N. Vance, MRCC - City Clerk