

BILL NO.16-024

ORDINANCE NO. 4729

FIRST READING 08.02.2016

SECOND READING 08.16.2016

AN ORDINANCE OF THE CITY OF HANNIBAL REVISING CHAPTER 19 NUISANCES OF THE HANNIBAL CITY CODE TO COMPLY WITH THE REQUIREMENTS OF MISSOURI SENATE BILL 572

WHEREAS, the State of Missouri has recently passed new legislation regarding Municipal Ordinances and their enforcement, said litigation styled as Senate Bill 572, and

WHEREAS, said litigation has amended the law in such manner that certain existing ordinances of the City of Hannibal are no longer in compliance with the law, and

WHEREAS, the City Council deems it necessary to comply with all provisions of State Law and to bring their ordinances into compliance with State Law.

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

SECTION 1: That Ordinance Number 19-3 is in violation of Senate Bill 572, and is hereby amended to read as follows:

Sec. 19-3 Abatement.

a. In addition to prosecution in municipal court, the city may seek abatement of the nuisance and imposition of a tax bill. Notwithstanding any provisions for notice as contained in the International Property Maintenance Code, this section shall control in those instances where the city elects to proceed with abatement and imposition of a special tax bill. The building inspector or other city official shall be designated as the official for this purpose under RSMo 67.398. Said city official shall provide written notice by personal service or by first-class mail to both the occupant of the property at the property address and the owner at the last known address of the owner, if not the same, specifically describing each condition of the lot or land declared to be a public nuisance, and which notice shall identify what action will remedy the public nuisance. Unless a condition presents an immediate, specifically identified risk to the public health or safety, the notice shall provide a reasonable time, not less than ten days, in which to abate or commence removal of each condition identified in notice.

b. Upon a failure of the owner to pursue the removal or abatement of such nuisance without unnecessary delay, the designated official may cause the condition which constitutes the nuisance to be removed or abated. The cost of such removal or abatement and the proof of notice to the owner of the property shall be certified to the city clerk or finance director, who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill at the city collector's option, for the property and the certified cost shall be collected by the city collector in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the

delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property from the date the tax bill is delinquent until paid, and shall be paid in full before the city shall accept payment of real estate taxes.

c. Notwithstanding any provision of the city's charter to the contrary, the city may provide, by ordinance, that the city may discharge all or any portion of the unrecovered costs or fines added pursuant to this section to the special tax bill upon a determination by the city that a public benefit will be gained by such discharge, and such discharge shall include any costs of tax collection, accrued interest, or attorney fees related to the special tax bill.

(Code 1963, § 210.130; Code 1988, § 19-3; Ord. No. 3143, § 1, 12-2-1980; Ord. No. 4409, § 19-3, 3-20-2007)

SECTION 2: Current Ordinance 19-5 is in violation of the provisions of said Senate Bill 572, and the city therefore amends it to read as follows:

Sec. 19-5. - Penalties.

(a) Penalties for a violation of the provisions of this chapter within a twelve month period beginning with the first violation shall be as follows: two hundred dollars for the first municipal ordinance violation; two hundred seventy-five dollars for the second municipal ordinance violation, three hundred fifty dollars for the third municipal ordinance violation, and four hundred fifty dollars for the fourth and any subsequent municipal ordinance violations. No jail time shall accrue for violations of this Chapter.

(b) The court shall not suspend imposition of sentence unless the defendant is placed on probation and as a condition of such probation such person performs community service under the supervision of the department of public works.

(Code 1988, § 19-5; Ord. No. 4278, § 1, 4-6-2004; Ord. No. 4388, § 1, 11-7-2006; Ord. No. 4409, § 19-5, 3-20-2007)

SECTION 3: That Ordinance Number 19-32 is in violation of Senate Bill 572, and is hereby amended to read as follows:

Sec. 19-32. - Nuisance declared.

(a) No damaged, disabled or unlicensed vehicles, or parts thereof, shall be allowed on any property.

(b) No damaged, disabled or unlicensed vehicle shall be allowed to remain on any street or highway for more than 48 hours.

(c) No commercial vehicle shall be kept, parked, or stored on any residential property; except commercial vehicles making local deliveries or providing local service are exempt from the provisions of this section.

(d) No construction or commercial-grade equipment shall be kept or stored on any residential property; except that equipment used to provide local service is exempt from the provisions of this section.

(e) The City shall provide written notice by personal service or by first-class mail to both the occupant of the property at the property address and the owner at the last known address of the owner, if not the same. The owner, lessee, renter, or resident of any residential property shall, upon notice, remove any such vehicle or equipment located on said residential property within ten days.

(f) Violation of this section shall be subject to prosecution in municipal court. Any person who violates this section shall, upon conviction, be punished as provided in Section 19-5 of this Code.

(Ord. No. 4570, § 2, 4-5-2011)

SECTION 4: That Ordinance Number 19-35 is in violation of Senate Bill 572, and is hereby amended to read as follows:

Sec. 19-35. - Abatement notice, nuisance vehicles or commercial-grade equipment on property.

Whenever the designated city official or his duly authorized representative determines that any commercial vehicle, or construction or commercial-grade equipment is a nuisance as defined herein, he shall cause written notice to be served upon the owner of the vehicle, if he can be located, or the person in custody of such vehicle by either personal service or by first-class mail to the last known addresses of the owner and the person in custody of such vehicle. The notice shall state that the vehicle or equipment is deemed to be a nuisance pursuant to this article, and shall briefly state facts deemed to constitute such vehicle and/or equipment a nuisance within the terms of this chapter, shall state the means to abate the nuisance, and shall state that the nuisance shall be abated within ten days from receipt of such notice.

(Ord. No. 4570, § 2, 4-5-2011)

SECTION 5: That Ordinance Number 19-36 is in violation of Senate Bill 572, and is hereby amended to read as follows:

Sec. 19-36. - Reasonable search to locate owner or custodian; notice to be attached to property.

When the owner or custodian of any nuisance located on a street or highway cannot be located by reasonable search, the notice shall be attached to the vehicle, briefly stating facts deemed to

constitute the vehicle a nuisance, describing the actions necessary to abate the nuisance and stating that the nuisance shall be abated within fourteen days of the date notice was posted..

(Ord. No. 4570, § 2, 4-5-2011)

SECTION 6: That Ordinance Number 19-38 no longer has any valid application and is hereby deleted.

SECTION 7: That Ordinance Number 19-71 is in violation of Senate Bill 572, and is hereby amended to read as follows:

Sec. 19-71. - Abatement.

(a) In the event that a violation of Section 19-70 shall be discovered by the City, the building inspector or other city official shall be designated as the official for this purpose. Said city official shall provide written notice by personal service or by first-class mail to both the occupant of the property at the property address and the owner at the last known address of the owner, if not the same, specifically describing the land upon which the weeds are located, and ordering the weeds to be cut within ten days. If within ten days the weeds are not cut, said city official is authorized to cut or contract to have cut such weeds, with the cost becoming a special lien on the property to be assessed in the same manner as other special assessments plus an amount included in the special tax bill representing the time expended by officers or employees of the city shall be calculated in the actual time and hourly rate of personnel; but in no case shall be less than \$60.00. Violation of this section may be prosecuted in municipal court, and shall be punishable pursuant to the provisions of this chapter.

(b) The provision of this section do not apply to land owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

(Code 1963, § 210.170; Code 1988, § 19-53; Ord. No. 3118, § 1, 12-28-1980; Ord. No. 3198, § 1, 10-10-1981; Ord. No. 3276, § 1, 9-21-1982; Ord. No. 3416, § 1, 9-18-1984; Ord. No. 4409, § 19-53, 3-20-2007)

State Law reference— Authority for abatement of nuisance weed growth, RSMo 71.285.

SECTION 8: That Ordinance Number 19-104 is in violation of Senate Bill 572, and is hereby amended to read as follows:

Sec. 19-104. - Prohibited.

The owner, lessee, and/or occupant, or any agent, representative or employee of such owner having control of any occupied or unoccupied lot or parcel of land within the city shall not allow an accumulation of garbage, rubbish, or trash in violation of the International Property Maintenance Code. Violations of this article shall be prosecuted in municipal court.

SECTION 9: That Ordinance Number 19-105 is in violation of Senate Bill 572, and is hereby amended to read as follows:

Sec. 19-105. - Abatement.

(a) Whenever the building inspector or other city official as designated shall find garbage, rubbish, or trash prohibited by this article, he shall provide written notice by personal service or by first-class mail to both the occupant of the property at the property address and the owner at the last known address of the owner, if not the same, specifically describing the land upon which the garbage, rubbish, or trash has accumulated, ordering it removed and disposed of in a clean and sanitary manner within ten days.. If within ten days the garbage, rubbish, or trash is not disposed of properly, said city official is authorized to seek any remedy provided by law, and may have the garbage, rubbish, or trash removed, with the cost becoming a special lien on the property to be assessed in the same manner as other special assessments, plus an amount included in the special tax bill representing the time expended by officer or employees of the city shall be calculated in the actual time and hourly rate of personnel; but in no case shall be less than \$60.00.

(b) The provision of this subsection does not apply to land owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

(Ord. No. 4409, § 19-72, 3-20-2007)

State Law reference— Authority for abatement of nuisance trash, RSMo 71.285.

SECTION 10: That Ordinance Number 19-122 is in violation of Senate Bill 572, and is hereby amended to read as follows:

Sec. 19-122. - Abatement.

(a) Whenever the designated city official shall find a vehicle parked or stored in violation of this article, he shall provide written notice by personal service or by first-class mail to both the occupant of the property at the property address and the owner at the last known address of the owner, if not the same, specifically describing the violation of the ordinance, and, requiring removal within ten days.

(b) If within ten days the vehicle is found parked or stored on any residential property in violation of this article, the designed city official shall issue a citation for prosecution in municipal court.

(c) Persons found in violation hereof shall be subject to the penalties set forth in Section 19-5.

(Ord. No. 4557, § 1, 1-4-2011)

SECTION 11: That Ordinance Number 19-124 is in violation of Senate Bill 572, and is duplicative of the penalty provisions contained in Section 19-122 and 19-5 and is hereby revoked.

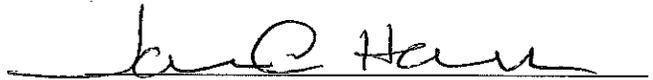
SECTION 12: It hereby is declared to be the intention of the City Council that each and every part, portion and sub-portion of this Ordinance shall be separate and severable from each and every other part, portion or sub-portion hereof and that the City Council intends to adopt each said part, portion 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 13: All ordinances and parts of ordinances in conflict with this ordinance, in so far as they conflict, are hereby repealed.

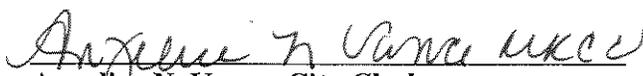
SECTION 14: That this Ordinance shall be in full force and effect from and after its passage and approval.

Adopted this 16th day of August, 2016.

Approved this 16th day of August, 2016.


James Hark, Mayor

ATTEST:


Angelica N. Vance, City Clerk