

BILL NO. 16-038

ORDINANCE NO. 4741

FIRST READING 12.20.2016

SECOND READING 01.03.2017

AN ORDINANCE REVISING CHAPTER 16, MISCELLANEOUS PROVISIONS AND OFFENSES, ARTICLE IV. –OFFENSES AGAINST PUBLIC MORALS, BY ADDING DIVISION 4 PROSTITUTION

WHEREAS, the City Council of the City of Hannibal has determined that Prostitution is a serious offense against Public Morals, and

WHEREAS, the City of Hannibal is a constitutional charter city, and it is within the police powers of the City of Hannibal to penalize prostitution and to enforce such ordinances as it deems appropriate to address such issues.

NOW THEREFORE BE IT ORDAINED THE CITY OF HANNIBAL COUNCIL MAKES THE FOLLOWING AMENDMENTS TO CHAPTER 16, ARTICLE IV. OF THE ORDINANCES OF THE CITY OF HANNIBAL:

SECTION ONE: That prior to the drafting of this Ordinance that there were only two remaining Section numbers reserved under Article IV. In order to allow numbering of Chapter 16 to remain consecutive and sequential, Article V. shall be revised, and renumbered with the first number assigned to said Article to be Section 16-175, and all other numbers to follow sequentially thereunder. Further, Sections 16-155 through 16-174 shall be assigned to Article IV, under the new Division 4 created herein.

SECTION TWO: That there is hereby created Section *CHAPTER 16, MISCELLANEOUS PROVISIONS AND OFFENSES, ARTICLE IV. –OFFENSES AGAINST PUBLIC MORALS, DIVISION 4 PROSTITUTION.*

SECTION THREE: That there is hereby created under said Division 4, Section 16-155, which shall provide as follows:

Section 16-155. Definitions

As used in this division, the following terms mean:

(1) "Deviate sexual intercourse", any sexual act involving the genitals of one person and the mouth, hand, tongue, or anus of another person; or any act involving the penetration, however slight, of the penis, the female genitalia, or the anus by a finger, instrument, or object done for the

purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;

(2) "Persistent prostitution offender", a person who has been found guilty of three or more prostitution-related offenses;

(3) "Prostitution-related offense", any violation of state law for prostitution, patronizing prostitution, or promoting prostitution;

(4) "Sexual conduct", sexual intercourse, deviate sexual intercourse, or sexual contact;

(5) "Sexual contact", any touching of another person with the genitals or any touching of the genitals or anus of another person or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person or for the purpose of terrorizing the victim;

(6) "Sexual intercourse", any penetration, however slight, of the female genitalia by the penis;

(7) "Something of value", any money or property, or any token, object or article exchangeable for money or property.

(State Law Reference RSMo 567.010).

SECTION FOUR: That there is hereby created under said Division 4, Section 16-156, which shall provide as follows:

Section 16-156. Offense of Prostitution.

1. A person commits the offense of prostitution if he or she engages in or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by any person.

2. If the person knew prior to performing the act of prostitution that he or she was infected with HIV then the offense is punishable by a fine of \$500.00, or jail time for a period time of not more than six months, or any combination of both a fine and imprisonment within said limits. The use of condoms is not a defense to this offense. "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.

3. The offense of prostitution shall be punishable by a fine of \$175.00 for the first offense, \$300 for the second offense and \$500.00 for a third or further offense, or by jail time, not to exceed 6 months, or any combination of both a fine and imprisonment within said limits.

4. The judge may order a drug and alcohol abuse treatment program for any person found guilty of prostitution, either after trial or upon a plea of guilty, before sentencing. Upon the successful

completion of such program by the defendant, the court may at its discretion allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. If the person is convicted under section 2 herein, the court shall not allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. The judge, however, has discretion to take into consideration successful completion of a drug or alcohol treatment program in determining the defendant's sentence.

(State Law Reference RSMo 567.020).

SECTION FIVE: That there is hereby created under said Division 4, Section 16-157, which shall provide as follows:

Section 16-157. Patronizing Prostitution.

1. A person commits the offense of patronizing prostitution if he or she:

(a) Pursuant to a prior understanding, gives something of value to another person as compensation for having engaged in sexual conduct with any person; or

(b) Gives or agrees to give something of value to another person with the understanding that such person or another person will engage in sexual conduct with any person; or

(c) Solicits or requests another person to engage in sexual conduct with any person in return for something of value.

2. The offense of patronizing prostitution shall be punishable by a fine of \$175.00 for the first offense, \$300 for the second offense and \$500.00 for a third or further offense, or by jail time, not to exceed 6 months, or any combination of both a fine and imprisonment within said limits.

(State Law Reference RSMo 567.030).

SECTION SIX: That there is hereby created under said Division 4, Section 16-158, which shall provide as follows:

Section 16-158. Promoting Prostitution.

1. A person commits the offense of promoting prostitution if he or she knowingly:

(a) Promotes prostitution by compelling a person to enter into, engage in, or remain in prostitution, such compulsion may include but is not limited to:

- (i) the use of a drug or intoxicating substance to render a person incapable of controlling his conduct or appreciating its nature;
 - (ii) Withholding or threatening to withhold dangerous drugs or a narcotic from a drug dependent person.
 - (b) promotes prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes.
 - (c) Causes or aids a person to commit or engage in prostitution;
 - (d) Procures or solicits patrons for prostitution;
 - (e) Provides persons or premises for prostitution purposes;
 - (f) Operates or assists in the operation of a house of prostitution or a prostitution business or enterprise;
 - (g) Accepts or receives or agrees to accept or receive something of value pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in proceeds of prostitution activity; or
 - (h) Engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution.
2. The offense of promoting prostitution shall be punishable by a fine of \$500, or a term of imprisonment of not more than six months or any combination of both a fine and imprisonment within said limits.

(State Law Reference RSMo 567.050, RSMo 567.060, RSMo 567.070).

SECTION EIGHT: That Sections 16-159 through 16-173 are hereby reserved.

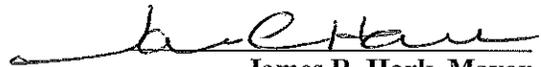
SECTION NINE: It hereby is declared to be the intention of the City Council that each and every part, portion and sub-portion of this Ordinance shall be separate and severable from each and every other part, portion or sub-portion hereof and that the City Council intends to adopt each said part, portion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

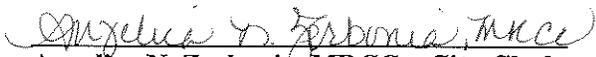
SECTION ELEVEN: That this Ordinance shall be in full force and effect from and after its passage and approval.

Adopted this 3rd day of January, 2017.

Approved this 3rd day of January, 2017.


James R. Hark, Mayor

ATTEST:


Angelica N. Zerbonia, MRCC – City Clerk