

BILL NO. 22-025
(as amended)

ORDINANCE NO. 4910

FIRST READING 09.06.2022

SECOND READING 09.20.2022

AN ORDINANCE REVISING CHAPTER 32 OF THE REVISED ORDINANCES OF THE CITY OF HANNIBAL TO ALLOW THE PLACEMENT OF DAYCARES IN ALL ZONES IN THE CITY OF HANNIBAL

WHEREAS, the City Council has determined that the Zoning Ordinances of the City of Hannibal do not specifically allow daycares to be placed in the City of Hannibal, and

WHEREAS, the Council has reviewed the matter and believes that daycares are appropriate in all zones of the City to allow ease and convenience to the citizens of Hannibal to provide for the care and safe keeping of their loved ones in an area near their homes, place of employment, etc, and

WHEREAS, the Council has reviewed the matter and has determined that Day Cares will not place a significant burden on any zone in the City of Hannibal, and that it is therefore in the best interests of the Citizens to provide for the specific allow of daycares in all zones.

NOW THEREFORE, the City Council makes the following amendments to Chapter 32 of the ordinances of the City of Hannibal:

SECTION ONE: CHAPTER 32, ARTICLE XIV, DISTRICT A, ONE- AND TWO-FAMILY DWELLING Section 32-216 is hereby revoked and replaced as follows:

Sec. 32-216. - Use regulations.

In the A district, no building or land shall be used and no building shall be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:

- (1) One- or two-family dwellings.
- (2) Churches.
- (3) Elementary schools, high schools and colleges.
- (4) Adult & Child Daycares associated with a home-based business, church, or school.

- (5) Museums, libraries, parks, playgrounds or community centers not operated or used for commercial purposes, and such public buildings as are necessary for health and safety, except hospitals.
- (6) Golf courses, except miniature golf courses.
- (7) Farming, truck gardening, orchard, nursery or greenhouse, provided no sales office is maintained in a building separate and apart from a residence or accessory building customarily incident to such use of a residence.
- (8) Accessory buildings, including one private garage in the rear yard or constructed as a part of the main building.
- (9) Customary home occupations or office of a resident member of a recognized profession, when confined to the main building provided no display of products made or sold shall be visible from the street.
- (10) Professional or other announcement signs not over one square foot in area, attached flat to the main wall of the buildings, temporary real estate signs not over six feet by six feet in size pertaining to the lease or sale of said property on which such sign is located, or illuminated bulletin boards or announcement boards of public buildings and churches not to exceed 20 square feet in area.

(Code 1963, § 82.010; Code 1988, § 32-302)

SECTION TWO: CHAPTER 32, ARTICLE VI, DISTRICT C, LOCAL BUSINESS DISTRICT, Section 32-274 is hereby revoked and replaced as follows:

Sec. 32-274. - Use regulations.

In the C district, no building or land shall be used and no building shall be erected or structurally altered unless otherwise provided for in this chapter, except for one or more of the following uses:

- (1) Churches.
- (2) Retail business/offices.
- (3) Establishments where food or drinks, other than intoxicating liquors, are sold to the public for consumption upon the premises.
- (4) Establishments selling packaged intoxicating and nonintoxicating liquors and beer not to be consumed on the premises.

- (5) Multiple-family residential, combined with any of the commercial uses in a single multiuse structure.
- (6) Barbershops.
- (7) Beauty parlors.
- (8) Tailoring, cleaning and dyeing establishments.
- (9) Parking lots.
- (10) Signs, provided they are attached flat to the front wall of a business building and do not exceed three feet in height.
- (11) Elementary schools, high schools, and colleges.
- (12) Adult & Child Daycares
- (13) Museums, parks, libraries, playgrounds, community centers, and public buildings.
- (14) Hospitals and clinics.
- (15) Clubs and lodge halls.
- (16) Parking garages.
- (17) Golf courses.
- (18) Farming, truck gardening, orchards, nurseries and greenhouses.
- (19) Financial institution.
- (20) Medical marijuana dispensary facility; subject to the setback provisions referenced in section 32-1.

(Code 1963, § 84.010; Code 1988, § 32-502; Ord. No. 3808, § 1, 11-17-1992; Ord. No. 3834, §§ 1—3, 7-20-1993; Ord. No. 4252, § 1, 5-27-2003; Ord. No. 4799, § 2, 5-7-2019)

SECTION THREE: CHAPTER 32, ARTICLE XIII, DISTRICT M, MOBILE HOME PARKS, Section 32-614 is hereby revoked and replaced as follows:

Sec. 32-614. - Permitted uses.

A building or the land in the mobile home park shall only be used for the following purposes:

- (1) Mobile home park sites.
- (2) Recreational areas or open space.
- (3) Management offices for mobile home parks.
- (4) Community buildings for mobile home parks.
- (5) Accessory structures incidental to the operation of mobile home parks; such as storage buildings located on an individual lot accessory to the trailer on that lot.
- (6) Adult & Child Daycares

(Code 1988, § 32-1304; Ord. No. 3967, § 1, 5-7-1996)

SECTION FOUR: CHAPTER 32, ARTICLE XIV, DISTRICT RD, RURAL ZONING DISTRICT, Section 32- 639. – Permitted uses, is hereby is hereby revoked and replaced as follows:

Sec. 32-639. - Permitted uses.

The following uses are permitted in the RD district:

- (1) Accessory buildings.
- (2) Agricultural use (see section 32-640).
- (3) Bed and breakfast inns.
- (4) Detached single-family residences.
- (5) Campgrounds.
- (6) Cemeteries.
- (7) Clubs, lodges and recreation facilities for use by nonprofit organizations.

- (8) Convalescent centers.
- (9) Adult & Child Daycares
- (10) Manufactured homes.
- (11) Garden centers.
- (12) Marinas and boating facilities.
- (13) Golf courses and related activities.
- (14) Kennels.
- (15) Churches.
- (16) Roadside agricultural stands, temporary.
- (17) Summer camps.
- (18) Veterinary clinics.
- (19) Government facilities, not including correctional facilities.
- (20) Public and private schools.
- (21) Public parks and playgrounds.
- (22) Public utility facilities.
- (23) Towers for transmitting and receiving electronic signals.

(Code 1988, § 32-1352; Ord. No. 4085, § 2, 12-15-1998)

SECTION FIVE: CHAPTER 32, ARTICLE XV, DISTRICT PDR, PLANNED DENSITY RESIDENTIAL DISTRICT, Section 32-672. – Permitted uses, is hereby is hereby revoked and replaced as follows:

Sec. 32-672. - Permitted uses.

The following uses are permitted in the PDR district:

- (1) Accessory buildings.
- (2) Detached single-family dwellings.
- (3) Duplex and triplex attached dwellings.
- (4) Multifamily dwellings, rental apartments.
- (5) Condominiums/townhouses attached (ownership).
- (6) Limited office/commercial.
- (7) Adult & Child Daycares.

(Code 1988, § 32-1402; Ord. No. 4086, § 2, 12-15-1998)

SECTION SIX: 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 SEVEN: All ordinances and parts of ordinances in conflict with this ordinance, in so far as they conflict, are hereby repealed.

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

Adopted this 20th day of September, 2022.

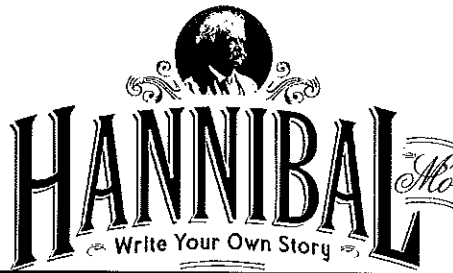
Approved this 20th day of September, 2022.


James R. Hark, Mayor

ATTEST:



Angelica N. Zerbonia, MRCC, CMO - City Clerk



To: City Council
From: Candy Golian – DPW Management Assistant
Re: Code Amendment
Date: August 19, 2022

Planning and Zoning Commission held their public hearing on Thursday, August 18, 2022, to amend Chapter 32 of the Code of Ordinances, to allow for daycares in all zoning designations. During the course of the regular meeting, the Commissioners unanimously voted to forward the proposed Ordinance before you this evening for Council approval.

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Memo

To: Hannibal City Council / Zoning Commission

From: City Attorney

Re: Business License Requirements

This memo is in regard to a possible requirement for day care facilities to obtain business licenses from the city, as well as a general discussion regarding business licenses.

RSMo § 71.610 Imposition of tax on business, when.

No municipal corporation in this state shall have the power to impose a license tax upon any business, avocation, pursuit, or calling, unless such business, avocation, pursuit or calling is specially named as taxable in the charter of such municipal corporation, or unless such power be conferred by the state.

As mentioned in the statute above, if there is no explicit local or state authority to impose a license tax on a particular business then a city may not do so.

There are three main issues we should discuss:

1. Does the Hannibal Charter or Municipal Code specially name day cares as taxable? No they do not. Article II, Section 15-49 of the Municipal Code provides an exhaustive list of the types of businesses that are required to obtain a business license. Day cares and similar types of business are not included in this list. The state law above is clear that unless a business is specially named in the municipality's charter then the city does not have the power to require them to get a business license. Therefore, the city may not impose business license requirements on day cares because day cares are not listed in any part of the charter as taxable through licensing.
2. Does the state give the city the power to tax day cares through licensing? No it does not. Chapter 94 of the Revised Statutes of Missouri talks about how different types of cities can levy taxes against businesses within those cities. Specifically it addresses what types of businesses can be taxed and regulated by different types of cities. Under this chapter no category of cities are granted the power to tax day cares through requiring a business license. The state has not given Hannibal the power to impose a license tax on child day cares.
3. Can the Charter be changed to allow the city to require other businesses to get licenses? It can be, but it would be an ordeal. Section 20.01 of the Charter requires that any proposed amendment be voted on by the electors at the next general election held in the city, or at a special election called by the city council. To change Article II, Section 15-49 to add day cares to the list of taxable businesses would require the city to jump through all the hoops necessary to properly put the issue to a vote of the people.

While on the subject it is worth mentioning for the future that the state, through RSMo §71.620,

specifically prohibits municipalities from imposing a business license tax on the following professions: minister of the gospel, duly accredited Christian Science practitioner, teacher, professor in a college, priest, lawyer, certified public accountant, dentist, chiropractor, optometrist, chiropodist, physician or surgeon. Further, cities are prohibited from imposing license taxes on the following professions unless they maintain a business office within that municipality: insurance agent, insurance broker, veterinarian, architect, professional engineer, land surveyor, auctioneer, real estate broker, or real estate salesman.