

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 25
96TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, March 17, 2011, with recommendation that the Senate Committee Substitute do pass.

0136S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 67.402, 226.720, and 479.011, RSMo, and to enact in lieu thereof four new sections relating to nuisances, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 67.402, 226.720, and 479.011, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 67.402, 67.451,
3 226.720, and 479.011, to read as follows:

67.402. 1. The governing body of **the following counties may enact**
2 **nuisance abatement ordinances as provided in this section:**

3 (1) Any county of the first classification with more than one hundred
4 thirty-five thousand four hundred but [less] **fewer** than one hundred thirty-five
5 thousand five hundred inhabitants[,];

6 (2) Any county of the first classification with more than seventy-one
7 thousand three hundred but [less] **fewer** than seventy-one thousand four
8 hundred inhabitants[, and];

9 (3) Any county of the first classification without a charter form of
10 government and with more than one hundred ninety-eight thousand but [less]
11 **fewer** than one hundred ninety-nine thousand two hundred inhabitants;

12 (4) Any county of the first classification with more than
13 **eighty-five thousand nine hundred but fewer than eighty-six thousand**
14 **inhabitants;**

15 (5) Any county of the third classification without a township
16 **form of government and with more than sixteen thousand four hundred**
17 **but fewer than sixteen thousand five hundred inhabitants;**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 **(6) Any county of the first classification with more than**
19 **eighty-two thousand but fewer than eighty-two thousand one hundred**
20 **inhabitants; and**

21 **(7) Any county of the third classification with a township form**
22 **of government and with more than fourteen thousand five hundred but**
23 **fewer than fourteen thousand six hundred inhabitants.**

24 **2. The governing body of any county described in subsection 1**
25 **of this section** may enact ordinances to provide for the abatement of a condition
26 of any lot or land that has the presence of rubbish and trash, lumber, bricks, tin,
27 steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict
28 construction equipment, derelict appliances, broken furniture, or overgrown or
29 noxious weeds in residential subdivisions or districts which may endanger public
30 safety or which is unhealthy or unsafe and declared to be a public nuisance.

31 **[2.] 3.** Any ordinance enacted pursuant to this section shall:

32 (1) Set forth those conditions which constitute a nuisance and which are
33 detrimental to the health, safety, or welfare of the residents of the county;

34 (2) Provide for duties of inspectors with regard to those conditions which
35 may be declared a nuisance, and shall provide for duties of the building
36 commissioner or designated officer or officers to supervise all inspectors and to
37 hold hearings regarding such property;

38 (3) Provide for service of adequate notice of the declaration of nuisance,
39 which notice shall specify that the nuisance is to be abated, listing a reasonable
40 time for commencement, and may provide that such notice be served either by
41 personal service or by certified mail, return receipt requested, but if service
42 cannot be had by either of these modes of service, then service may be had by
43 publication. The ordinances shall further provide that the owner, occupant,
44 lessee, mortgagee, agent, and all other persons having an interest in the property
45 as shown by the land records of the recorder of deeds of the county wherein the
46 property is located shall be made parties;

47 (4) Provide that upon failure to commence work of abating the nuisance
48 within the time specified or upon failure to proceed continuously with the work
49 without unnecessary delay, the building commissioner or designated officer or
50 officers shall call and have a full and adequate hearing upon the matter before
51 the county commission, giving the affected parties at least ten days' written
52 notice of the hearing. Any party may be represented by counsel, and all parties
53 shall have an opportunity to be heard. After the hearings, if evidence supports

54 a finding that the property is a nuisance or detrimental to the health, safety, or
55 welfare of the residents of the county, the county commission shall issue an order
56 making specific findings of fact, based upon competent and substantial evidence,
57 which shows the property to be a nuisance and detrimental to the health, safety,
58 or welfare of the residents of the county and ordering the nuisance abated. If the
59 evidence does not support a finding that the property is a nuisance or detrimental
60 to the health, safety, or welfare of the residents of the county, no order shall be
61 issued.

62 [3.] 4. Any ordinance authorized by this section may provide that if the
63 owner fails to begin abating the nuisance within a specific time which shall not
64 be longer than seven days of receiving notice that the nuisance has been ordered
65 removed, the building commissioner or designated officer shall cause the
66 condition which constitutes the nuisance to be removed. If the building
67 commissioner or designated officer causes such condition to be removed or abated,
68 the cost of such removal shall be certified to the county clerk or officer in charge
69 of finance who shall cause the certified cost to be included in a special tax bill or
70 added to the annual real estate tax bill, at the county collector's option, for the
71 property and the certified cost shall be collected by the county collector in the
72 same manner and procedure for collecting real estate taxes. If the certified cost
73 is not paid, the tax bill shall be considered delinquent, and the collection of the
74 delinquent bill shall be governed by the laws governing delinquent and back
75 taxes. The tax bill from the date of its issuance shall be deemed a personal debt
76 against the owner and shall also be a lien on the property until paid.

77 **5. No county of the first, second, third, or fourth classification**
78 **shall have the power to adopt any ordinance, resolution, or regulation**
79 **under this section governing any railroad company,**
80 **telecommunications or wireless companies, public utilities, rural**
81 **electric cooperatives, or municipal utilities.**

67.451. Any city in which voters have approved fees to recover
2 **costs associated with enforcement of municipal housing, property**
3 **maintenance, or nuisance ordinances may issue a special tax bill**
4 **against the property where such ordinance violations existed. The**
5 **officer in charge of finance shall cause the amount of unrecovered costs**
6 **to be included in a special tax bill or added to the annual real estate**
7 **tax bill for the property at the collecting official's option, and the costs**
8 **shall be collected by the city collector or other official collecting taxes**

9 in the same manner and procedure for collecting real estate taxes. If
10 the cost is not paid, the tax bill shall be considered delinquent, and the
11 collection of the delinquent bill shall be governed by laws governing
12 delinquent and back taxes. The tax bill shall be deemed a personal
13 debt against the owner from the date of issuance, and shall also be a
14 lien on the property until paid. Notwithstanding any provision of the
15 city's charter to the contrary, the city may provide, by ordinance, that
16 the city may discharge the special tax bill upon a determination by the
17 city that a public benefit will be gained by such discharge, and such
18 discharge shall include any costs of tax collection, accrued interest, or
19 attorney fees related to the special tax bill.

226.720. 1. No junkyard shall be established, maintained or operated
2 within two hundred feet of any other state or county road in this state unless
3 such junkyard is **fully** screened from the **state or county** road by a **permanent**
4 tight board or other screen fence not less than ten feet high, or of sufficient
5 height to **fully** screen the wrecked or disabled automobiles or junk kept therein
6 from the view of persons using the **state or county** road on foot or in vehicles
7 in the ordinary manner, except that nothing in this section shall apply to any
8 junkyard located in any incorporated town, village or city. The provisions of
9 sections 226.650 through 226.710 shall not apply to this section except the
10 definitions appearing in section 226.660.

11 2. Any person, firm or corporation who establishes, conducts, owns,
12 maintains or operates a junkyard without complying with the provisions of this
13 section shall, [on] **upon their first** conviction, be guilty of a **class C**
14 **misdemeanor and shall be ordered to either remove the junk from the**
15 **property or build a fence as described in this section. Any person, firm,**
16 **or corporation who establishes, conducts, owns, maintains, or operates**
17 **a junkyard without complying with the provisions of this section shall,**
18 **upon their second or subsequent violation, be guilty of a class A**
19 **misdemeanor and shall be ordered to either remove the junk from the**
20 **property or build a fence as described in this section.**

479.011. 1. (1) **The following cities may establish an**
2 **administrative adjudication system under this section:**

3 (a) Any city not within a county [or];

4 (b) Any home rule city with more than four hundred thousand
5 inhabitants and located in more than one county; **and**

6 **(c) Any home rule city with more than seventy-three thousand**
7 **but fewer than seventy-five thousand inhabitants.**

8 **(2) The cities listed in subdivision (1) of this subsection** may
9 establish, by order or ordinance, an administrative system for adjudicating
10 **housing, property maintenance, nuisance,** parking, and other civil,
11 nonmoving municipal code violations consistent with applicable state law. Such
12 administrative adjudication system shall be subject to practice, procedure, and
13 pleading rules established by the state supreme court, circuit court, or municipal
14 court. This section shall not be construed to affect the validity of other
15 administrative adjudication systems authorized by state law and created before
16 August 28, 2004.

17 2. The order or ordinance creating the administrative adjudication system
18 shall designate the administrative tribunal and its jurisdiction, including the code
19 violations to be reviewed. The administrative tribunal may operate under the
20 supervision of the municipal court, parking commission, or other entity
21 designated by order or ordinance and in a manner consistent with state law. The
22 administrative tribunal shall adopt policies and procedures for administrative
23 hearings, and filing and notification requirements for appeals to the municipal
24 or circuit court, subject to the approval of the municipal or circuit court.

25 3. The administrative adjudication process authorized in this section shall
26 ensure a fair and impartial review of contested municipal code violations, and
27 shall afford the parties due process of law. The formal rules of evidence shall not
28 apply in any administrative review or hearing authorized in this
29 section. Evidence, including hearsay, may be admitted only if it is the type of
30 evidence commonly relied upon by reasonably prudent persons in the conduct of
31 their affairs. The code violation notice, property record, and related
32 documentation in the proper form, or a copy thereof, shall be prima facie evidence
33 of the municipal code violation. The officer who issued the code violation citation
34 need not be present.

35 4. An administrative tribunal may not impose incarceration or any fine
36 in excess of the amount allowed by law. Any sanction, fine or costs, or part of any
37 fine, other sanction, or costs, remaining unpaid after the exhaustion of, or the
38 failure to exhaust, judicial review procedures under chapter 536 shall be a debt
39 due and owing the city, and may be collected in accordance with applicable law.

40 5. Any final decision or disposition of a code violation by an
41 administrative tribunal shall constitute a final determination for purposes of

42 judicial review. Such determination is subject to review under chapter 536 or, at
43 the request of the defendant made within ten days, a trial de novo in the circuit
44 court. After expiration of the judicial review period under chapter 536, unless
45 stayed by a court of competent jurisdiction, the administrative tribunal's
46 decisions, findings, rules, and orders may be enforced in the same manner as a
47 judgment entered by a court of competent jurisdiction. Upon being recorded in
48 the manner required by state law or the uniform commercial code, a lien may be
49 imposed on the real or personal property of any defendant entering a plea of nolo
50 contendere, pleading guilty to, or found guilty of a municipal code violation in the
51 amount of any debt due the city under this section and enforced in the same
52 manner as a judgment lien under a judgment of a court of competent
53 jurisdiction. **The city may also issue a special tax bill to collect fines**
54 **issued for housing, property maintenance, and nuisance code**
55 **violations.**

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Bill

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