

SECOND REGULAR SESSION

SENATE BILL NO. 1002

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS JUSTUS, WILSON AND CALLAHAN.

Read 1st time January 22, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4531S.011

AN ACT

To repeal section 89.120, as enacted by senate committee substitute for house substitute for house committee substitute for house bills nos. 977 & 1608, eighty-ninth general assembly, second regular session, and section 89.120, as enacted by senate committee substitute for house bill no. 1352, eighty-ninth general assembly, second regular session, and to enact in lieu thereof one new section relating to zoning violation remedies, with penalty provisions.

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

Section A. Section 89.120, as enacted by senate committee substitute for
2 house substitute for house committee substitute for house bills nos. 977 & 1608,
3 eighty-ninth general assembly, second regular session, and section 89.120, as
4 enacted by senate committee substitute for house bill no. 1352, eighty-ninth
5 general assembly, second regular session, is repealed and one new section enacted
6 in lieu thereof, to be known as section 89.120, to read as follows:

89.120. 1. In case any building or structure is erected, constructed,
2 reconstructed, altered, converted, or maintained, or any building, structure, or
3 land is used in violation of sections 89.010 to 89.140 or of any ordinance or other
4 regulation made under authority conferred hereby, the proper local authorities
5 of the municipality, in addition to other remedies, may institute any appropriate
6 action or proceedings to prevent such unlawful erection, construction,
7 reconstruction, alteration, conversion, maintenance, or use, to restrain, correct,
8 or abate such violation, to prevent the occupancy of such building, structure, or
9 land, or to prevent any illegal act, conduct, business, or use in or about such
10 premises. Such regulations shall be enforced by an officer empowered to cause
11 any building, structure, place, or premises to be inspected and examined and to

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

12 order in writing the remedying of any condition found to exist therein or thereat
13 in violation of any provision of the regulations made under authority of sections
14 89.010 to 89.140.

15 2. The owner or general agent of a building or premises where a violation
16 of any provision of said regulations has been committed or shall exist, or the
17 lessee or tenant of an entire building or entire premises where such violation has
18 been committed or shall exist, or the owner, general agent, lessee, or tenant of
19 any part of the building or premises in which such violation has been committed
20 or shall exist, or the general agent, architect, builder, contractor, or any other
21 person who commits, takes part or assists in any such violation, or who maintains
22 any building or premises in which any such violation shall exist shall be guilty
23 of a misdemeanor punishable as follows:

24 (1) In any [municipality contained wholly or partially within a county]
25 **city** with [a population of over six hundred thousand and less than nine] **more**
26 **than three** hundred thousand **inhabitants**, by a fine of not less than ten dollars
27 and not more than five hundred dollars for each and every day that such violation
28 continues, or by imprisonment for ten days for each and every day such violation
29 shall continue, or by both such fine and imprisonment in the discretion of the
30 court. Notwithstanding the provisions of section 82.300, RSMo, however, for the
31 second and subsequent offenses involving the same violation at the same building
32 or premises, the punishment shall be a fine of not less than two hundred and fifty
33 dollars or more than one thousand dollars for each and every day that such
34 violation shall continue, or by imprisonment for ten days for each and every day
35 such violation shall continue, or by both such fine and imprisonment in the
36 discretion of the court;

37 (2) In all other municipalities, by a fine of not less than ten dollars and
38 not more than [one] **two** hundred **fifty** dollars for each and every day that such
39 violation continues, [but if the offense be willful on conviction thereof, the
40 punishment shall be a fine of not less than one hundred dollars or more than two
41 hundred and fifty dollars for each and every day that such violation shall
42 continue] or by imprisonment for ten days for each and every day such violation
43 shall continue, or by both such fine and imprisonment in the discretion of the
44 court. **Notwithstanding the provisions of section 82.300, RSMo, to the**
45 **contrary, for second and subsequent offenses involving the same**
46 **violation at the same building or premises, the punishment shall be a**
47 **fine of not less than one hundred dollars but not more than five**

48 **hundred dollars for each and every day that such violation shall**
49 **continue, or by imprisonment for ten days for each and every day such**
50 **violation shall continue, or by both such fine and imprisonment in the**
51 **discretion of the court.**

52 3. Any such person who, having been served with an order to remove any
53 such violation, shall fail to comply with such order within ten days after such
54 service or shall continue to violate any provision of the regulations made under
55 authority of sections 89.010 to 89.140 in the respect named in such order shall
56 also be subject to a civil penalty of two hundred and fifty dollars.

 [89.120. 1. In case any building or structure is erected,
2 constructed, reconstructed, altered, converted or maintained, or any
3 building, structure or land is used in violation of sections 89.010 to
4 89.140 or of any ordinance or other regulation made under
5 authority conferred hereby, the proper local authorities of the
6 municipality, in addition to other remedies, may institute any
7 appropriate action or proceedings to prevent such unlawful
8 erection, construction, reconstruction, alteration, conversion,
9 maintenance or use, to restrain, correct, or abate such violation, to
10 prevent the occupancy of such building, structure, or land, or to
11 prevent any illegal act, conduct, business, or use in or about such
12 premises. Such regulations shall be enforced by an officer
13 empowered to cause any building, structure, place or premises to
14 be inspected and examined and to order in writing the remedying
15 of any condition found to exist therein or thereat in violation of any
16 provision of the regulations made pursuant to the authority of
17 sections 89.010 to 89.140.

 2. Except as provided in subsection 4 of this section, the
18 owner or general agent of a building or premises where a violation
19 of any provision of said regulations has been committed or shall
20 exist, or the lessee or tenant of an entire building or entire
21 premises where such violation has been committed or shall exist,
22 or the owner, general agent, lessee or tenant of any part of the
23 building or premises in which such violation has been committed
24 or shall exist, or the general agent, architect, builder, contractor or
25 any other person who commits, takes part or assists in any such
26 violation or who maintains any building or premises in which any
27

such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars and not more than two hundred fifty dollars for each and every day that such violation continues or by imprisonment for ten days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court. Notwithstanding the provisions of section 82.300, RSMo, however, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars or more than five hundred dollars for each and every day that such violation shall continue or by imprisonment for ten days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court.

3. Any such person who having been served with an order to remove any such violation shall fail to comply with such order within ten days after such service or shall continue to violate any provision of the regulations made under authority of sections 89.010 to 89.140 in the respect named in such order shall also be subject to a civil penalty of two hundred and fifty dollars.

4. In a city with a population of more than three hundred fifty thousand, the owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars and not more than two hundred fifty dollars for each and every day that such violation continues, but if the offense be willful on conviction thereof, the punishment shall be a fine of not less than one hundred dollars or more than five hundred dollars for

64 each and every day that such violation shall continue or by
65 imprisonment for ten days for each and every day such violation
66 shall continue or by both such fine and imprisonment in the
67 discretion of the court.]

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Bill

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