

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 829**  
95TH GENERAL ASSEMBLY

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Reported from the Committee on Jobs, Economic Development and Local Government, March 4, 2010, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

4708S.03C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 67.402 and 71.285, RSMo, and to enact in lieu thereof two new sections relating to nuisance abatement ordinances.

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

Section A. Sections 67.402 and 71.285, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 67.402 and 71.285, to read as follows:

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

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

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

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

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

(5) Any county of the third classification without a township form of government and with more than sixteen thousand four hundred 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 third classification with a township form**  
19 **of government and with more than fourteen thousand five hundred but**  
20 **fewer than fourteen thousand six hundred inhabitants.**

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

30           **[2.] 3.** Any ordinance enacted pursuant to this section shall:

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

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

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

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

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

61 [3.] 4. Any ordinance authorized by this section may provide that if the  
62 owner fails to begin abating the nuisance within a specific time which shall not  
63 be longer than seven days of receiving notice that the nuisance has been ordered  
64 removed, the building commissioner or designated officer shall cause the  
65 condition which constitutes the nuisance to be removed. If the building  
66 commissioner or designated officer causes such condition to be removed or abated,  
67 the cost of such removal shall be certified to the county clerk or officer in charge  
68 of finance who shall cause the certified cost to be included in a special tax bill or  
69 added to the annual real estate tax bill, at the county collector's option, for the  
70 property and the certified cost shall be collected by the county collector in the  
71 same manner and procedure for collecting real estate taxes. If the certified cost  
72 is not paid, the tax bill shall be considered delinquent, and the collection of the  
73 delinquent bill shall be governed by the laws governing delinquent and back  
74 taxes. The tax bill from the date of its issuance shall be deemed a personal debt  
75 against the owner and shall also be a lien on the property until paid.

76 **5. No county shall have the power to adopt any ordinance,**  
77 **resolution, or regulation pursuant to this section governing any**  
78 **railroad company.**

71.285. 1. Whenever weeds or trash, in violation of an ordinance, are  
2 allowed to grow or accumulate, as the case may be, on any part of any lot or  
3 ground within any city, town or village in this state, the owner of the ground, or  
4 in case of joint tenancy, tenancy by entireties or tenancy in common, each owner  
5 thereof, shall be liable. The marshal or other city official as designated in such  
6 ordinance shall give a hearing after ten days' notice thereof, either personally or  
7 by United States mail to the owner or owners, or the owner's agents, or by posting  
8 such notice on the premises; thereupon, the marshal or other designated city  
9 official may declare the weeds or trash to be a nuisance and order the same to be  
10 abated within five days; and in case the weeds or trash are not removed within  
11 the five days, the marshal or other designated city official shall have the weeds

12 or trash removed, and shall certify the costs of same to the city clerk, who shall  
13 cause a special tax bill therefor against the property to be prepared and to be  
14 collected by the collector, with other taxes assessed against the property; and the  
15 tax bill from the date of its issuance shall be a first lien on the property until  
16 paid and shall be prima facie evidence of the recitals therein and of its validity,  
17 and no mere clerical error or informality in the same, or in the proceedings  
18 leading up to the issuance, shall be a defense thereto. Each special tax bill shall  
19 be issued by the city clerk and delivered to the collector on or before the first day  
20 of June of each year. Such tax bills if not paid when due shall bear interest at  
21 the rate of eight percent per annum. Notwithstanding the time limitations of this  
22 section, any city, town or village located in a county of the first classification may  
23 hold the hearing provided in this section four days after notice is sent or posted,  
24 and may order at the hearing that the weeds or trash shall be abated within five  
25 business days after the hearing and if such weeds or trash are not removed  
26 within five business days after the hearing, the order shall allow the city to  
27 immediately remove the weeds or trash pursuant to this section. Except for lands  
28 owned by a public utility, rights-of-way, and easements appurtenant or incidental  
29 to lands controlled by any railroad, the department of transportation, the  
30 department of natural resources or the department of conservation, the provisions  
31 of this subsection shall not apply to any city with a population of at least seventy  
32 thousand inhabitants which is located in a county of the first classification with  
33 a population of less than one hundred thousand inhabitants which adjoins a  
34 county with a population of less than one hundred thousand inhabitants that  
35 contains part of a city with a population of three hundred fifty thousand or more  
36 inhabitants, any city with a population of one hundred thousand or more  
37 inhabitants which is located within a county of the first classification that adjoins  
38 no other county of the first classification, or any city, town or village located  
39 within a county of the first classification with a charter form of government with  
40 a population of nine hundred thousand or more inhabitants, or any city with a  
41 population of three hundred fifty thousand or more inhabitants which is located  
42 in more than one county, or the City of St. Louis, where such city, town or village  
43 establishes its own procedures for abatement of weeds or trash, and such city may  
44 charge its costs of collecting the tax bill, including attorney fees, in the event a  
45 lawsuit is required to enforce a tax bill.

46           2. Except as provided in subsection 3 of this section, if weeds are allowed  
47 to grow, or if trash is allowed to accumulate, on the same property in violation of

48 an ordinance more than once during the same growing season in the case of  
49 weeds, or more than once during a calendar year in the case of trash, in any city  
50 with a population of three hundred fifty thousand or more inhabitants which is  
51 located in more than one county, in the City of St. Louis, in any city, town or  
52 village located in a county of the first classification with a charter form of  
53 government with a population of nine hundred thousand or more inhabitants, in  
54 any fourth class city located in a county of the first classification with a charter  
55 form of government and a population of less than three hundred thousand, or in  
56 any home rule city with more than one hundred thirteen thousand two hundred  
57 but less than one hundred thirteen thousand three hundred inhabitants located  
58 in a county with a charter form of government and with more than six hundred  
59 thousand but less than seven hundred thousand inhabitants, the marshal or other  
60 designated city official may order that the weeds or trash be abated within five  
61 business days after notice is sent to or posted on the property. In case the weeds  
62 or trash are not removed within the five days, the marshal or other designated  
63 city official may have the weeds or trash removed and the cost of the same shall  
64 be billed in the manner described in subsection 1 of this section.

65 3. If weeds are allowed to grow, or if trash is allowed to accumulate, on  
66 the same property in violation of an ordinance more than once during the same  
67 growing season in the case of weeds, or more than once during a calendar year  
68 in the case of trash, in any city with a population of three hundred fifty thousand  
69 or more inhabitants which is located in more than one county, in the City of St.  
70 Louis, in any city, town or village located in a county of the first classification  
71 with a charter form of government with a population of nine hundred thousand  
72 or more inhabitants, in any fourth class city located in a county of the first  
73 classification with a charter form of government and a population of less than  
74 three hundred thousand, in any home rule city with more than one hundred  
75 thirteen thousand two hundred but less than one hundred thirteen thousand  
76 three hundred inhabitants located in a county with a charter form of government  
77 and with more than six hundred thousand but less than seven hundred thousand  
78 inhabitants, [in any third class city with a population of at least ten thousand  
79 inhabitants but less than fifteen thousand inhabitants with the greater part of  
80 the population located in a county of the first classification, in any city of the  
81 third classification with more than sixteen thousand nine hundred but less than  
82 seventeen thousand inhabitants, or in any city of the third classification with  
83 more than eight thousand but fewer than nine thousand inhabitants] **or in any**

84 **city of the third classification**, the marshal or other designated official may,  
85 without further notification, have the weeds or trash removed and the cost of the  
86 same shall be billed in the manner described in subsection 1 of this section. The  
87 provisions of subsection 2 and this subsection do not apply to lands owned by a  
88 public utility and lands, rights-of-way, and easements appurtenant or incidental  
89 to lands controlled by any railroad.

90 4. The provisions of this section shall not apply to any city with a  
91 population of one hundred thousand or more inhabitants which is located within  
92 a county of the first classification that adjoins no other county of the first  
93 classification where such city establishes its own procedures for abatement of  
94 weeds or trash, and such city may charge its costs of collecting the tax bill,  
95 including attorney fees, in the event a lawsuit is required to enforce a tax bill.

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Bill

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