

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1849

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES PRATT (Sponsor) AND CURLS (Co-sponsor).

Read 1st time January 24, 2008 and copies ordered printed.

Read 2nd time January 28, 2008 and referred to the Committee on Local Government February 7, 2008.

Reported from the Committee on Local Government March 25, 2008 with recommendation that the bill Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules March 27, 2008 with recommendation that the bill Do Pass by Consent with no time limit for debate.

Perfected by Consent April 3, 2008.

D. ADAM CRUMBLISS, Chief Clerk

4013L.01P

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### 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.

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4 bill no. 1352, eighty-ninth general assembly, second regular session, is repealed and one new  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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

32 (2) In all other municipalities, by a fine of not less than ten dollars and not more than  
33 [one] **two** hundred **fifty** dollars for each and every day that such violation continues, [but if the  
34 offense be willful on conviction thereof, the punishment shall be a fine of not less than one  
35 hundred dollars or more than two hundred and fifty dollars for each and every day that such  
36 violation shall continue] or by imprisonment for ten days for each and every day such violation

37 shall continue, or by both such fine and imprisonment in the discretion of the court.  
38 **Notwithstanding the provisions of section 82.300, RSMo, for the second and subsequent**  
39 **offenses involving the same violation at the same building or premises, the punishment**  
40 **shall be a fine of not less than one hundred dollars or more than five hundred dollars for**  
41 **each and every day that such violation shall continue, or by imprisonment for ten days for**  
42 **each and every day such violation shall continue, or by both such fine and imprisonment**  
43 **in the discretion of the court.**

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

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

16 2. Except as provided in subsection 4 of this section, the owner or general  
17 agent of a building or premises where a violation of any provision of said  
18 regulations has been committed or shall exist, or the lessee or tenant of an entire  
19 building or entire premises where such violation has been committed or shall  
20 exist, or the owner, general agent, lessee or tenant of any part of the building or  
21 premises in which such violation has been committed or shall exist, or the  
22 general agent, architect, builder, contractor or any other person who commits,  
23 takes part or assists in any such violation or who maintains any building or  
24 premises in which any such violation shall exist shall be guilty of a misdemeanor  
25 punishable by a fine of not less than ten dollars and not more than two hundred  
26 fifty dollars for each and every day that such violation continues or by  
27 imprisonment for ten days for each and every day such violation shall continue  
28 or by both such fine and imprisonment in the discretion of the court.  
29 Notwithstanding the provisions of section 82.300, RSMo, however, for the  
30 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

31 or more than five hundred dollars for each and every day that such violation shall  
32 continue or by imprisonment for ten days for each and every day such violation  
33 shall continue or by both such fine and imprisonment in the discretion of the  
34 court.

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

40 4. In a city with a population of more than three hundred fifty thousand,  
41 the owner or general agent of a building or premises where a violation of any  
42 provision of said regulations has been committed or shall exist, or the lessee or  
43 tenant of an entire building or entire premises where such violation has been  
44 committed or shall exist, or the owner, general agent, lessee or tenant of any part  
45 of the building or premises in which such violation has been committed or shall  
46 exist, or the general agent, architect, builder, contractor or any other person who  
47 commits, takes part or assists in any such violation or who maintains any building  
48 or premises in which any such violation shall exist shall be guilty of a  
49 misdemeanor punishable by a fine of not less than ten dollars and not more than  
50 two hundred fifty dollars for each and every day that such violation continues, but  
51 if the offense be willful on conviction thereof, the punishment shall be a fine of  
52 not less than one hundred dollars or more than five hundred dollars for each and  
53 every day that such violation shall continue or by imprisonment for ten days for  
54 each and every day such violation shall continue or by both such fine and  
55 imprisonment in the discretion of the court.]

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