



OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

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ATTORNEY GENERAL

February 10, 1975

OPINION LETTER NO. 51

Honorable D. R. Osbourn
Representative, District 14
% House Post Office
State Capitol Building
Jefferson City, Missouri 65101

Dear Representative Osbourn:

This is in response to your request for an opinion from this office as follows:

"Regarding Section 67.400 of the Missouri Revised Statutes--what type of punishment or penalty is contemplated by this state statute.

"This question arises from the city attorney's office in Louisiana. Because they have many buildings and structures that are not in compliance with Section 67.400, we are interested in finding out what measures might be taken to enforce this section of the statutes."

Louisiana is a third class city.

Section 67.400, RSMo, to which you refer, provides as follows:

"The governing body of any city, town, village, or county having a charter form of government may enact ordinances to provide for vacation and the mandatory demolition of buildings and structures or mandatory repair and maintenance of buildings or structures within the corporate limits of

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the city, town or village which are detrimental to the health, safety or welfare of the residents and declared to be a public nuisance."

Sections 67.400 to 67.450, RSMo, were enacted in 1969 by House Bill No. 60.

Section 67.420, RSMo, provides:

"Any ordinance adopted may provide that the failure to comply with the notice of declaration of nuisance within a reasonable time or failure to proceed continuously without unnecessary delay will be punishable as set forth in the ordinance."

You enclose with your opinion request a copy of an ordinance enacted by the city of Louisiana in regard to this matter. Section 7 of the ordinance provides as follows:

"Section 7. PENALTY FOR VIOLATION.
Failure to comply with the notice of declaration within the time specified or failure to proceed continuously without unnecessary delay, shall be punishable in the Police Court by a fine of not more than

\$100.00 or by imprisonment in the City Jail not exceeding 30 days or by both such fine and imprisonment. Each day of noncompliance with the notice of declaration of nuisance shall be considered a separate offense."

In substance you inquire whether the penalty provision is a valid ordinance of the city. Not passing on the validity of the other provisions of the ordinance, it is our view that the city of Louisiana has authority to enact an ordinance providing for punishment by a fine or not more than \$100 or by imprisonment in the city jail not exceeding 30 days or by both such fine and imprisonment for failure to comply with the provisions of the ordinances enacted by the city regarding this matter. Section 77.590, RSMo Supp. 1973, provides that the council of a city of the third class shall have the power to enact and make all necessary ordinances, rules and regulations; and they shall also have power to enact and make all such ordinances and rules, not inconsistent with the laws of the state, as may be expedient for maintaining the peace and good government and welfare of the city, and its trade and commerce; and all ordinances may be enforced

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by prescribing and inflicting upon inhabitants or the persons violating the same, such fine not exceeding \$500, and such imprisonment not exceed three months, or both such fine and imprisonment, as may be just for any offense, recoverable with costs of suit, together with judgment of imprisonment, until the fine and costs are paid.

It is our view that a city of the third class has authority to enact an ordinance providing for a penalty by a fine of not more than \$500 or by imprisonment in the city jail not exceeding 30 days, or by both such fine and imprisonment, for a person who fails to comply with the provisions of ordinances enacted under Sections 67.400 to 67.450, RSMo, in regard to the demolition or repair of buildings and structures which are detrimental to the health, safety, and welfare of the residents of the city.

Yours very truly,



JOHN C. DANFORTH
Attorney General