

Chapter 15

ENVIRONMENT*

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***Cross reference(s)**--Health and community services department, § 2-321 et seq.; buildings and building regulations, ch. 7; health and sanitation, ch. 17; solid waste, ch. 24; sewers and sewage disposal, § 29-81 et seq.

State law reference(s)--Powers of home rule charter cities, Mo. Const. art. VI, § 19(a); environmental control, RSMo ch. 260.

ST. JOSEPH CODE

ARTICLE I. IN GENERAL**Secs. 15-1--15-24. Reserved.****ARTICLE II. PROPERTY
MAINTENANCEREQUIREMENTS*****Sec. 15-25. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Enclosed structure* - an enclosed structure built according to city code, i.e., garage with three permanent walls and a roof.
- (2) *Garbage* - putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food. See also "solid waste".
- (3) *Habitability* - capable of being lived-in; suitable for habitation.
- (4) *Junk* - old, dilapidated, abandoned or scrap rubber, appliances, beds, debris, dismantled or wrecked vehicles, furniture, glass, metal, paper, plastic, waste or parts thereof.
- (5) *Occupant* - any person who has a legal or equitable interest in a parcel of real property, other than a fee interest, including a life tenant, lessee, tenant at will, tenant at sufferance or adverse possessor, as well as a person in possession or a person who has charge, care or control of the parcel of real property as the agent or personal representative of the person holding legal title of a fee interest. Possession, charge, care of control may include living, sleeping, cooking or eating in the parcel of real property.
- (6) *Owner* - any person who, along or jointly or severally with others:
 - a. Shall have legal title to any parcel of real property, building or structure, or part thereof, with or without accompanying actual possession thereof; or
 - b. Shall have charge, care or control of any parcel of real property, building or structure, or part thereof, as agent or personal representative of the person having legal title to the building or structure, or part thereof; or
 - c. Shall have possession or right to possession under a contract for deed; or
 - d. Shall have legal title of a vehicle.
- (7) *Person* - any agent, private corporation, firm, partnership, association, administrator, and any executor, receiver, representative or trustee appointed according to law.
- (8) *Prohibited vehicle* - any vehicle described in Section 15-28(a)(b) and (c) of this article.
- (9) *Rank growth of vegetation* - thickets or any vegetation which may emit noxious odors or any vegetation which is seven inches or more in height. Rank growth of vegetation shall not mean trees in excess of six feet in height, cultivated or attended trees less than six feet in height or cultivated or attended plants, bushes or shrubbery.
- (10) *Reasonable residential storage* - the open, outdoor storage of usable building materials in small amounts will not be considered a nuisance if the open storage is temporary (temporary being not beyond 30 days after the building/construction permit expires) and the building materials are to be used for the benefit of the property on which they are located. *Exemption:* A very small amount of outdoor storage not visible from public or private view.
- (11) *Solid waste* - solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, including, but not limited to, animal wastes, appliances,

***Cross reference(s)**--Abandoned property, § 2-1246 et seq.; animals, ch. 5; dangerous buildings, § 7-351 et seq.; abandoned ice boxes and refrigerators, § 20-139.

ashes, construction and demolition wastes, garbage, major appliances, refuse, rubbish, street refuse, trash and yard wastes, but not hazardous waste or waste material resulting from mining, milling or smelting.

- (12) *Tarpaulin* - a piece of opaque material (durable plastic) used for protecting exposed objects or areas, which must be in good repair (no holes or rips), of adequate size (in relationship to what is tarped) and secured.
- (13) *Unsafe* - a state or condition of danger, harm or risk; unsecured from threat of danger, harm or loss.
- (14) *Unsanitary* - a state or condition that endangers personal or public health.
- (15) *Waste tire* - a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.
- (16) *Weeds* - grasses and unattended growths of other plants, bushes and shrubbery which are seven inches or more in height.
- (17) *Woodland* - a large, dense growth of trees, plants and underbrush.
- (18) *Yard waste* - leaves, grass clippings, yard and garden vegetation, tree trimmings and Christmas trees.

(G.O. 1697, 5-3-99)

Sec. 15-26. Purpose of property maintenance requirements.

The city finds that unkempt, unsafe, unsanitary and otherwise improperly maintained properties, structures, sidewalks and easements within the city materially and adversely effect the use and habitability of nearby property and of property within the city as a whole, in addition to the hazards which these conditions could pose to the public health, safety and welfare. Numerous properties that are unkempt, unsafe, unsanitary and/or dangerous may materially and adversely affect the economic wellbeing of the city. This article conveys to the city staff, in accordance with the procedures set out herein, all necessary and proper power to abate nuisances, and other improperly maintained structures and properties

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as they are described or found to exist, and to charge the costs of the abatement to the owners and/or occupants of the property upon which the nuisance and or improper maintenance exists, as well as the property itself. This article is an exercise of the city's police power and shall be liberally construed.

(G.O. 1697, 5-3-99)

Sec. 15-27. Maintenance of property - nuisance defined or declared.

It shall be the duty of each owner, occupant or person in possession, charge or control of the property, together with one-half of the platted city right-of-way abutting thereon, or street or alley abutting thereon, to maintain the premises within the city limits in such a manner as not to allow the accumulation of debris, refuse, rubbish, trash or nuisances as defined in, or described by, this code. Any condition or item on the premises which prohibits the routine maintenance of that premises, or which causes a threat to the health, safety and welfare of the public, shall be declared a nuisance, which shall include, but not limited to:

- (1) *Debris, refuse, rubbish, trash.* Accumulations of unused boards, bricks, concrete or rocks, animal or vegetable products or matter, appliances, ashes, barrels, bones, bottles, boxes, broken glass, brush, cans, cartons, cinders, coal, crates, decayed fruits or vegetables, dirt, dust, excrement, fence wire, filth, firewood not piled or stacked neatly and systematically (must be in rear yard), flammable materials, foliage and shrub clippings or cuttings, garbage, gasoline, grass, household furniture, iron or other metals, junk, kegs, leaves, logs, lumber not piled or stacked neatly and systematically (must have nails removed and be in rear yard; untreated lumber must be stacked), lumber scraps, manure, nails, offal, oil, old wearing apparel, paint, paper, piled brush and fallen tree limbs or debris, plaster, plastic (discarded containers or wrappers), plumbing fixtures, putrid fish or meat entrails, rags, rank growths of vegetation, roof shingles, rubber, sawdust, slag, slop, soot, straw, sweepings, tacks, Tarpaulin not in good repair, tire(s) (mounted or unmounted), toilets, tubs, vehicle parts, weeds, wire,

wood or metal shavings, any type of solid or yard waste (bagged or unbagged), or any condition or item that would prohibit the routine maintenance of the property.

Exemption: Composting, which is a controlled biological reduction of organic waste to humus, as follows:

- a. All compost piles shall be maintained using approved composting procedures in compliance with the following requirements:
 1. All compost shall be enclosed in a freestanding compost bin. Each compost bin shall be no larger in volume than 75 cubic feet for properties 10,000 square feet and less in size, with an additional 75 cubic feet permitted for each additional 10,000 square feet. Compost bins shall be no higher than five feet.
 2. All compost piles shall be maintained so as to prevent the attraction or harborage of rodents and pests. The presence of rodents or other pests in or near a compost pile shall be cause for the city to issue a complaint.
 3. All compost piles shall be maintained so as to prevent unpleasant, rotten, egg-like, putrefactive, sweet, sour or pungent odors.
 4. Unless written permission has been granted by the adjoining property owner, no compost pile shall be located less than three feet from the rear or side property line, or within 20 feet of any home, patio, pool, or similar structure, of or on any adjacent property. All compost piles shall be at least three feet behind the front building setback line.
 5. No compost pile shall be located where it will impede the natural free flow of stormwater drainage.
- b. No compost pile shall contain any of the following:
 1. Animal carcasses;
 2. Fish, fowl, meat or other animal products;
 3. Food scraps;
 4. Fruits, vegetables or nuts;
 5. Items not normally composted;
 6. Lake weeds; and
 7. Manure.
- c. Permitted ingredients in a compost pile shall include:
 1. Commercial compost additives;
 2. Wood chips; and
 3. Yard waste.
- d. Compost piles established in accordance with this article are for private use only. There shall be no commercial provision of material that has been composted in a residential area.
- e. Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this article.
 - (2) *Disease or breeding of insects or vermin.* Any existing condition or item, which harbors or fosters the spread of disease or the breeding of insects or vermin.
 - (3) *Elevated vehicle.* An elevated vehicle is any vehicle, licensed or unlicensed, which is raised, but not supported under the axles, or is raised to a height where the tires are more than two inches off of the ground.
 - (4) *Excessive exterior lighting.* Directing, arranging or using exterior lighting from any property or areas so that the light shines or glares on another property, thereby adversely affecting the use and enjoyment of those persons who own or use the property.
 - (5) *Junk vehicle.* A junk vehicle is any type of device or part thereof, designed to be self-propelled, located outside of an enclosed structure that is moved by power, other than human power, is designed to travel along the ground, is located on private property and is damaged, stripped or wrecked or has

missing wheels or tires, or flat tires, or broken or missing window glass.

- (6) *Noxious or offensive odors.* Any condition or item causing a noxious or offensive odor that is discomforting and interferes with the free use of residential property. *Exemption:* Industrial generated odors or odors generated from criminal enterprises, i.e. methamphetamine lab.
- (7) *Pools of water.* Unmaintained water pools and ponds that become stagnate and may cause a location for breeding of insects.
- (8) *Unlicensed vehicle.* An unlicensed vehicle is any type of self-propelled device, or part thereof, located outside of an enclosed structure that is moved by power, other than human power, is designed to travel along the ground, is located on private property and does not have showing a current state license plate, or is improperly registered or licensed pursuant to any state or local laws or regulations.

- (9) *Miscellaneous.* Violations of this article or of Section 20-193.

(Code 1969, §§ 11-8(8), 11-11, 11-30, 11-255, 11-257, 11-258; Gen. Ord. No. 1188, § 1(11-314), 7-5-94; G.O. 1344, 11-6-95; G.O. 1437, 7-15-96; G.O. 1578, 11-17-97; G.O. 1697, 5-3-99)

Sec. 15-28. Maintenance of property - prohibited vehicles.

(a) *Elevated vehicle.* Elevated vehicles shall be prohibited and are a nuisance. An elevated vehicle is any vehicle, licensed or unlicensed, which is raised, but not supported under the axles, or is raised to a height where the tires are more than two inches off of the ground.

(b) *Junk vehicle.* Junk vehicles shall be prohibited and are a nuisance. A junk vehicle is any type of, or part thereof, designed to be self-propelled, located outside of an enclosed structure that is moved by power, other than human power, is designed to travel along the ground, is located on private property and is damaged, stripped or wrecked or has missing wheels or tires, or flat tires, or broken or missing window glass. Junk

vehicles shall include, but not be limited to: (1) all-terrain vehicles, (2) automobiles, (3) motorcycles, (4) snowmobiles, (5) tractors, (6) trailers, (7) trucks and (8) wagons.

(c) *Unlicensed vehicle.* Unlicensed vehicles shall be prohibited and are a nuisance. An unlicensed vehicle is any type of self-propelled device, or part thereof, located outside of an enclosed structure that is moved by power, other than human power, is designed to travel along the ground, is located on private property and does not have showing a current state license plate, or is improperly registered or licensed pursuant to any state or local laws or regulations. Unlicensed vehicles shall include, but not be limited to: 1) automobiles, 2) motorcycles, 3) trailers and 4) trucks. An unlicensed vehicle shall not be allowed to exist on private property for more than ten days.

(d) The following shall be exempt from this section:

- (1) One unlicensed vehicle stored on the vehicle owner's premises, provided that the vehicle meets all of the following requirements:
- It is totally intact (i.e., no missing parts);
 - It has all tires properly inflated;
 - It has all window glass intact; and
 - It is parked upon and over a hard surface (concrete, asphalt, brick and/or gravel), which is free of vegetation.

(2) Vehicle(s) or parts thereof, that are in disrepair and are located on the premises of a duly licensed automobile repair or sales business for a period not to exceed three months.

(3) Vehicle(s) located on the premises of a duly licensed motor vehicle junk business or junkyard.

(e) Prior to the removal (by towing) of a prohibited vehicle, city staff shall first attempt to obtain the consent of the owner of the property on which said vehicle is located.

(f) *Licensed vehicle.* The parking or placing of a licensed vehicle in a residential neighborhood

front yard, side yard if a corner lot, or parkway shall be prohibited and is a nuisance. A licensed vehicle shall include, but not be limited to: 1) automobiles, 2) motorcycles, 3) trailers, 4) trucks, 5) wagons, 6) snowmobiles, 7) unlicensed all-terrain vehicles (ATV's), 8) automobile trailers and 9) racecars or other racing vehicles.

- (1) Any licensed vehicle that is parked on private property for more than six consecutive hours will be in violation of this subsection.
- (2) The following exceptions to this subsection shall exist:
 - a. Should an individual or contractor be engaged in construction on a structure in a residential neighborhood, any vehicles that are parked for the necessity of completing a construction project shall not be in violation. Said construction must be completed in a reasonable time and abuse of this subsection shall be a violation of this subsection; and
 - b. Any currently licensed vehicle that is parked upon and over a hard surface (concrete, asphalt, brick and/or gravel) which is free of vegetation shall not be in violation.
- (3) Should a vehicle owner be found to be in violation, a parking ticket shall be issued to the owner of the vehicle and a fine of \$25.00 shall be assessed. Such fine shall be payable to the director of financial services. If the fine is not paid within ten days of the date of issuance, an additional \$25.00 fine shall be assessed.

(Gen. Ord. No. 1188, § 1(11-314(c)), 7-5-94; G.O. 1344, 11-6-95; G.O. 1697, 5-3-99; G.O. 1987, 11-10-03)

Sec. 15-29. Maintenance of property - weeds and rank growth.

It shall be the duty of each owner, occupant or person in possession, charge or control of the property, together with one half of the platted right-of-way abutting thereon, or street or alley abutting thereon, to cut all weeds, grasses and nonagricultural plants which are seven inches or more, in height or other rank growths of vegetation that may be injurious to health by releasing particulate matter into the atmosphere or other means, which is considered noxious by the state, obstructs vehicular or foot traffic, infringes upon the enjoyment or use of adjacent properties or may be conducive to fires or combustion. On property of three acres or more that is either agricultural in character or a woodland, weeds and rank growths of vegetation shall be cut within 50 feet of all private or public property lines, including public rights-of-way. Noxious weeds, as defined by the state, shall be entirely removed from agricultural, commercial and residential lots. (Code 1969, § 11-314; G.O. 1344, 11-6-95; G.O. 1697, 5-3-99)

State law reference(s)--Weed abatement, RSMo 71.285.

Sec. 15-30. Placing filth, refuse, rubbish, sewage, trash on public property.

It shall be unlawful for any person or occupant to deposit, place, dump, pour or drain onto any street, highway or place within the city limits any filth, refuse, rubbish, sewage, trash or substances that emits any foul, noxious or disagreeable odor or attracts insects, vermin or other pests.

(Code 1969, § 11-13; G.O. 1344, 11-6-95; G.O. 1697, 5-3-99)

Sec. 15-31. Creating, maintaining nuisance on property; penalty.

(a) No owner, occupant or person in possession, charge or control within the city limits, shall cause, maintain or permit a nuisance, as defined by the laws of the state or this code, on public property or on any premises owned or controlled by such person.

(b) It shall be a misdemeanor for any person to violate any section of this article.

(c) Any person who has been found guilty of violating this section shall be required to pay a minimum fine of \$25.00 for the first offense. Any person who has been found guilty of violating this section a second time, during the same 12 month period, shall pay a minimum fine of \$50.00. Any person who is found guilty of violating this section a third time, during the same 12 month period, shall be fined a minimum of \$150.00. Any person who is found guilty of violating this section four or more times during the same 12 month period shall be fined a minimum of \$300.00 for the fourth offense and each subsequent offense. If a person is charged and found guilty of more than one offense on the same day, then all such offenses on that day, for purposes of this section, shall be counted as one violation.

(Code 1969, § 11-10, 11-16, 11-255, 11-315; G.O. 1344, 11-6-95; G.O. 1697, 5-3-99)

Sec. 15-32. Procedure to abate.

Whenever the director of planning & community services finds that a nuisance exists as provided in this article, the procedure for abatement shall be as follows:

- (1) *Notice.* The director of planning & community services or his or her designee shall notify the person causing, maintaining or permitting the nuisance that he/she must abate or remove such nuisance within seven calendar days. Such notice shall be required in order to abate the nuisance pursuant to the provisions of Subsection (6) of this section, but shall not be a prerequisite for a violation of this article.

Initial notification shall be made by delivering the notice or by depositing it in the United States mail, postage prepaid, addressed to the owner of the property and/or the person occupying the property. If notification is not made by delivery or by mail, then it shall be by one or more of the following methods:

- a. If such property is not occupied, the director of planning & community services or his or her designee shall, whether or not the owner is known, provide notification by posting a notice containing an order to abate or

remove the nuisance, within a time to be specified in the notice, upon such property; or

- b. If the above method of service of notice cannot be successfully completed, then by a one-time publication in a daily newspaper within the city. Such notice by publication shall include a description of the nuisance to be abated, the location of the nuisance and the alternatives set forth in Subsection (4) of this section.

In instances where a nuisance consists of weeds and rank growths of vegetation and the weeds are allowed to grow on the same property in violation of this article more than once during the same or successive growing seasons, the director of planning & community services or his or her designee may provide notice addressed to the owner and/or the person occupying or having possession or the right to possession of the property by certified mail that the violation exists and that further violations regarding weeds and rank growths of vegetation during that growing season will be abated without notification.

- (2) *Prima facie evidence of nuisance.* If the nuisance is on private property, proof that a person occupies the property or that a person has possession or the right to possession of the property shall constitute prima facie evidence for purposes of this article that such person has caused, maintained or permitted the nuisance; and such person shall be responsible for its abatement. The director of planning & community services or his or her designee may enter upon private property for inspection or abatement purposes in accordance with this section. If any person refuses to allow entry onto his/her private property, city staff may obtain a warrant from the proper official and proceed in accordance therewith.
- (3) *Separate offenses.* A person notified as provided in this section shall not fail, neglect or refuse to comply with the notice within the time specified in such notice. For every day from the time

specified in the notice that such person shall fail, neglect or refuse to comply with the same and for every day thereafter that such person shall fail, neglect or refuse to abate or remove such nuisance, he or she may be charged with a separate offense under this article. If the property has been posted with a notice to abate the nuisance, failure to give notice as set forth in this section shall not in any way invalidate a lien against the land for the costs associated with abating the nuisance.

- (4) *Alternatives.* Any person notified under Subsection (1) of this section shall exercise one of the following alternatives within seven days from the time notice was received:
- a. Abate the nuisance at the expense of the person so notified;
 - b. Furnish the director of planning & community services with written consent for the city to abate the nuisance with the costs of such abatement to be assessed to the person consenting; or
 - c. Request a reconsideration hearing before the city manager, or his or her designee, to protest the allegation that a nuisance exists by filing a written request with the director of planning & community services.
- (5) *Appeal.* When a reconsideration hearing is requested as provided by Subsection (4) of this section and the city manager, or his or her designee, finds that a nuisance exists, an appeal may be taken from that decision by filing for the appropriate relief in the Circuit Court of Buchanan County, Missouri.
- (6) *Confirmation of nuisance.* If the person notified fails to exercise one of the alternatives provided in Subsection (4) of this section, or has not secured a reversal of the finding of a nuisance and has exhausted his/her appeals, then the director of planning & community services, or his or her designee, shall confirm the finding that a nuisance exists and proceed with the abatement of the nuisance in any reasonable manner and assess the costs of the abatement and the

administrative processing of the nuisance against the property.

- (7) *Storage, redemption, sale.* After the determination that a nuisance exists pursuant to Sections 15-26, 15-27, 15-28, 15-29 and 15-30 items having any apparent monetary value, beyond salvage value, removed during the nuisance abatement shall be transported to a storage area or lot at the expense of the owner or person in custody thereof. It shall then be stored for a period of at least 30 days, and the person entitled to possession thereof may redeem the property by payment to the city of the actual cost of its removal and a reasonable storage and administrative processing fee. If any item is unredeemed after the expiration of the 30-day period, the director of planning & community services or his or her designee may sell it to the highest bidder or, if it has no sale value, may otherwise dispose of it. Any money received from the disposal of any item shall be applied to the costs charged to the owner or person in charge thereof.

- (8) *Notice of sale.* Prior to the sale of any such property obtained in a nuisance abatement, the director of planning & community services or his or her designee, shall cause to be posted in city hall, at the place of storage and in at least one other public place in the city, a notice of sale stating:

- a. that the city is selling abandoned property;
- b. the color, make, year, motor number and serial number, if available, and any other information necessary for an accurate identification of the property;
- c. the terms of the sale; and
- d. the date, time and place of the sale.

This notice shall be published at least once seven days prior to the sale in a newspaper published in the city.

- (9) *Assessment of abatement costs.*
- a. If the abatement is performed by city employees, the cost of the abatement

will be calculated according to the schedule of costs promulgated by the director of financial services and kept on file in the office of the city clerk. This schedule is to be determined after an analysis by the director of financial services to determine an accurate estimation of the costs incurred by the city to abate nuisances subject to this section.

- b. If the abatement is performed by contractors hired by the city, the costs charged for the abatement will be the actual amount paid to the contractor for the abatement performed.
- c. Any and all direct fees and costs, including but not limited to, landfill fees shall be included in the abatement cost.
- d. All abatements will be subject to an administrative fee as defined in Section 15-34.

(Code 1969, § 11-8, 11-9, 11-12, 11-259; Gen. Ord. No. 1170, § 1(11-316), 5-9-94; G.O. 1344, 11-6-95; G.O. 1427, 7-1-96; G.O. 1697, 5-3-99; G.O. 1883, 7-8-02; G.O. 1903, 10-28-02)

Sec. 15-33. Reconsideration hearing before the city manager.

Whenever an appeal is taken under Section 15-32(4)c., the city manager shall give notice to all interested parties, including the owner and occupant of the property, of the date, time and place of a public hearing to be held to determine whether a nuisance does exist. All persons notified shall be given an opportunity to present evidence and make arguments to the city manager and be represented by an attorney. If the city manager, or his or her designee, determines that a nuisance does exist, the city manager shall issue to the director of community services an order to abate the nuisance in any reasonable manner and assess the costs against the property. The order shall contain written findings of fact and a copy of the order shall be given to all interested parties. However, the director of community services shall have the power to summarily abate, in any reasonable manner, any nuisance, which constitutes an immediate danger to the health, safety and welfare of the inhabitants of the city. (Code 1969, § 11-317; G.O. 1344, 11-6-95; G.O. 1697, 5-3-99)

Sec. 15-34. Collection of abatement costs.

When the city expends any funds in the abatement of any nuisance, the director of financial services, or his or her designee, shall notify, by certified mail, the person against whose property the costs were incurred of said costs. The director of customer assistance shall certify the costs incurred in abating the nuisance and administratively processing the abatement to the director of financial services, together with the description of the property. The cost of administratively processing the abatement to the director of financial services shall be \$75.00 per regular abatement action, \$200.00 for large special bids and \$600.00 for railroad bids. The person notified shall have 30 days from the mailing of said notice within which to pay the costs of the abatement to the director of financial services. If the person so notified fails to pay the costs of the abatement and the costs of administratively processing the abatement within 30 days, the director of financial services, or his or her designee, shall immediately, upon the receipt of this information, enter an assessment in the appropriate books of the city to be kept for that purpose; and upon the entry of this assessment, a lien will attach to the property. The assessment shall be deemed a personal debt against the property owner until paid.

(Code 1969, § 11-318; G.O. 1344, 11-6-95; G.O. 1443, 7-29-96; G.O. 1697, 5-3-99; G.O. 1788, 9-5-00; G.O. 2010, 3-15-04)

Sec. 15-35. Disposition of abatement costs.

If the city receives any revenue as a result of the abatement of any nuisance, that revenue shall be deposited in, and credited to, the fund account, of the department that initially advanced the costs for the abatement or enforcement. If any revenue received by the city in the abatement of a nuisance cannot first be credited to such department's fund account, then the revenue received shall be deposited in, and credited to, the general fund.

(Code 1969, § 11-319; G.O. 1344, 11-6-95; G.O. 1697, 5-3-99)