

Task # 22
Overall Task Subject: Derelict Manufactured Home Violations
Purpose of this part of task: Comply with State Law Act No. 45

Text Recognition:
~~deleted text~~ = deleted text
Substituted/added text is bold italics

ARTICLE 11.10 DERELICT MANUFACTURED HOMES

§11.10.1 DERELICT MANUFACTURED HOMES

(1) ‘Derelict manufactured home’ means a manufactured home:

(a) that is:

(i) not connected to electricity or not connected to a source of safe potable water supply sufficient for normal residential needs, or both;

(ii) not connected to a Department of Health and Environmental Control approved wastewater disposal system; or

(iii) unoccupied for a period of at least thirty days and for which there is clear and convincing evidence that the occupant does not intend to return on a temporary or permanent basis; and

(b) that is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a hazard to the health or safety of the occupants, the persons using the manufactured home, or the public.

(2) ‘Landowner’ means the owner of real property on which a derelict manufactured home is located.

(3) ‘Local governing body’ means the governing body of a county.

(4) ‘Local official’ means the office or agency that is responsible for inspecting or zoning property in a county.

(5) ‘Manufactured home’ means a structure, not including a modular home, designed for temporary or permanent habitation and constructed to permit its transport on wheels, temporarily or permanently attached to its frame, from its place of construction or sale to a location where it is intended to be a housing unit or a storage unit.

(B)(1) If a landowner seeks to have a manufactured home removed from his property and sold, the landowner may apply to a magistrate and follow the procedures in Section 29-15-10 of State law. The landowner does not have to have the manufactured home determined to be derelict manufactured home in order to have it removed from his property and sold following the procedures of Section 29-15-10 of State law.

(2) If a landowner seeks to have a manufactured home determined to be derelict so it may be removed from the landowner's property and destroyed, the landowner must:

(a) apply to the local official to have the manufactured home inspected;

(b) receive written confirmation from the local official that the manufactured home has been inspected and meets the requirements for removal and disposal and provided in this section;

(c) file the required pleadings with the magistrate to seek to have the manufactured home removed from the property and destroyed, and follow the procedures in Section 29-15-10 of State law to notify the owner of the manufactured home and any lienholders that the local official has determined the manufactured home is a derelict manufactured home and that the matter is the subject of a proceeding in the magistrates court; and

(d) post a notice on each door of the manufactured home for thirty consecutive days reading substantially as follows:

'NOTICE

This manufactured home is the subject of a proceeding in the magistrates court to determine if it will be removed from the property. For further information, please contact: (name and telephone number of landowner seeking removal) or (name and telephone number of magistrates court where action is pending).

(Date of Notice)'

(3) If, in a court proceeding with the proper notice, the magistrate determines that the manufactured home is derelict, as provided in this section, and orders the derelict manufactured home to be removed and destroyed, the landowner must remove and dispose of the derelict manufactured home and send proof of the removal and disposal to the county auditor as provided in Section 12-49-85(D) of State law.

(C)(1) If a local official determines that a derelict manufactured home has value for which it may be sold, the local official may apply to a magistrate and follow the procedures in Section 29-15-10 of State law to notify the owner of the manufactured home and any lienholders that the local official has determined the manufactured home is a derelict manufactured home and has filed the required pleadings with the magistrate to seek to have the manufactured home removed from the property and sold.

(2) If a local official seeks to remove and destroy a derelict manufactured home, the local official must follow the procedures in Section 29-15-10 of State law to notify the owner of the manufactured home and any lienholders that the local official has determined the manufactured home is a derelict manufactured home and has filed the required pleadings with the magistrate to seek to have the manufactured home removed from the property and destroyed.

(3) In addition to the notice requirements in the magistrates court, in order to (a) remove and sell, or (b) remove and destroy a derelict a derelict manufactured home, a local official must post a notice on each door of the manufactured home for thirty consecutive days reading substantially as follows:

'NOTICE

This manufactured home is the subject of a proceeding in the magistrates court to determine if

it will be removed from this property. For further information, please contact: (name and telephone number of local government office seeking removal) or (name and telephone number of magistrates court where action is pending).

(Date of Notice)'

(4) In a court proceeding with the proper notice, a magistrate must determine whether a derelict manufactured home may be either (a) removed and sold, or (b) removed and destroyed. In order for the manufactured home to be removed and destroyed, it must meet the requirements of a derelict manufactured home to be removed and destroyed, it must meet the requirements of a derelict manufactured home as defined in this section.

(5) If the magistrate determines that the manufactured home is derelict and is to be removed and sold, the local official must follow the procedures in Section 29-15-10 of State law.

(6) If the magistrate determines that the manufactured home is derelict and is to be removed and destroyed, the local official or the landowner must remove and dispose of the derelict manufactured home and send proof of the removal and disposal to the county auditor as provided in Section 12-49-85(D) of State law.

(D)(1) All costs of removal and disposal are the responsibility of the owner of the derelict manufactured home, and may be waived only by order of the magistrates court or if a local governing body has a program that covers removal disposal costs.

(2) A lienholder of the derelict manufactured home is not responsible for the costs of removal and disposal unless the lienholder or his agent effects a recovery of the manufactured home under its lien and subsequently the lienholder or his agent knowingly abandons the manufactured home on the property and allows the manufactured home to become a derelict manufactured home.

(3) If the landowner is the owner of the derelict manufactured home and is unwilling or unable to pay the costs of removal and disposal, a lien for costs of removal and disposal must be placed on the landowner's real property where the derelict manufactured home was located.

(E) To defray the costs of location, identification, and inspection of derelict manufactured homes, a local governing body may impose a registration fee of no more than twenty-five dollars to be paid when a manufactured home is registered with the county. This fee may be in addition to all other fees and charges relating to a manufactured home and may be required to be paid before electrical connection.