

ABANDONED MOBILE HOME PROCESS

STEP ONE:

The mobile home must be abandoned.

1. "Abandoned mobile home" means a mobile home that has been left vacant by all tenants for at least 90 days without notice to the landowner and when there is evidence of one or more of the following:
 - A. A tenant's failure to pay rent or fees for 90 days;
 - B. Removal of most or all personal belongings from such mobile home;
 - C. Cancellation of insurance for such mobile home;
 - D. Termination of utility services to such mobile home; or
 - E. A risk to public health, safety, welfare, or the environment due to such mobile home.

STEP TWO:

The mobile home must be inspected by the Local Government Agent. Contact the Worth County Building & Zoning / Code Enforcement Department. Upon inspection, the local government agent shall classify such abandoned mobile home as either **Intact** or **Derelict** and provide documentation citing such determination to the requesting landowner within 20 days of such request.

1. "**Intact**" means an abandoned mobile home which is in livable condition under applicable state law and the building and health codes of the local governing authority. The local government agent determines an abandoned mobile home to be intact:
2. "**Derelict**" means an abandoned mobile home which is in need of extensive repair and is uninhabitable and unsafe due to the presence of one or more of the following conditions:
 - a. Inadequate provisions for ventilation, light, air, or sanitation; or
 - b. Damage caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe.

If determined to be derelict, the Local Government Agent shall post notice of such determination in a conspicuous location on such abandoned mobile home. Such notice shall include a date of issuance and shall be in substantially the following form:

"You are hereby notified that this mobile home (describe make, model, and color, if known) located at (address or description of location) has been deemed abandoned and derelict. You are entitled to a hearing in the Worth County Magistrate Court to contest this determination. If you fail to request a hearing within 90 days from the date that appears on this notice or if it is confirmed by the court that this abandoned mobile home is derelict, the owner of the land upon which this mobile home sits shall be entitled to dispose of the mobile home."

THE ABANDONED MOBILE HOME HAD BEEN DETERMINED TO BE “DERELICT”:

WHAT HAPPENS NEXT?

1. The landowner, **on the same day** the Local Government Agent posts the derelict notice on the mobile home, shall send notice, which notice shall include a listing of all responsible parties and last known addresses, to all responsible parties by registered or certified mail or statutory overnight delivery.
 - A. The notice shall contain:
 1. A description of the abandoned mobile home, including the make of the mobile home.
 2. The location of such mobile home.
 3. The fact that the mobile home has been deemed derelict.
 4. A statement that the responsible party is entitled to request a hearing in the Worth County Magistrate Court within 90 days of the notice to contest the determination that the mobile home is derelict.
 5. The fact that failure to request a hearing with 90 days of receipt of the notice the landowner shall be entitled to dispose of the home.
 6. "Landowner" means the owner of real property upon which a mobile home is located.
 7. "Responsible party" is any person with an ownership interest in the mobile home as evidenced by the last payor of record as identified by search of deeds or instruments of title, including any holder of a recorded lien or the holder of any type of secured interest in the home or a local government with an unpaid tax claim.

NOTE: (TENANT MAY NOT BE RESPONSIBLE PARTY.)

2. I cannot identify the “Responsible Party”. What can I do?

- A. Landowner shall place an advertisement in a newspaper of general circulation in the county where such mobile home is located.
 1. Add shall run once a week for two consecutive weeks.
- B. If there is no newspaper in such county, shall post such advertisement at the county courthouse in such place where other public notices are posted.
 1. Shall remain posted at the courthouse for two consecutive weeks.
- C. The advertisement shall contain a description of the mobile home, including the make of the mobile home, the location of such mobile home, and the fact that such mobile home has been deemed derelict.
- D. The advertisement shall include a statement that such responsible party is entitled to request a hearing in the Worth County Magistrate Court by a date certain.
- E. The advertisement shall state the specific end date (90 days from date that appears on notice) to contest the determination that such abandoned mobile home is derelict.
- F. The advertisement shall state that failure to request a hearing by such date (90 days from date that appears on notice) shall entitle such landowner to dispose of the derelict mobile home.
- G. Notice shall read substantially as follows:

"You are hereby notified that this mobile home (describe make, model, and color, if known) located at (address or description of location) has been deemed abandoned and derelict. You are entitled to a hearing in the Worth County Magistrate Court to contest this determination. If you fail to request a hearing within 90 days from the date that appears on this notice or if it is confirmed by a court that this abandoned mobile home is derelict, the owner of the land upon which this mobile home sits shall be entitled to dispose of the mobile home."

COURT ACTION

A. Within the 90-day period from date of inspection by the Local Government Agent, a responsible party can request a hearing.

B. After the expiration of the 90-day period from date of inspection by the Local Government Agent, the Landowner can request a hearing.

C. The hearing will be held within 10 days of the filing of a petition for such hearing.

1. The court shall hear evidence:

a. Concerning the condition of the home:

1. This may include the determination of the Local Government Agent.

2. Evidence from the Responsible Party(s).

3. Evidence from the Landowner.

b. To determine if the notice provisions have been met.

2. If, after a full hearing, the court determines the abandoned mobile home to be derelict:

a. The court shall issue an order finding such mobile home to be derelict and authorizing the landowner to dispose said home.

b. Upon the issuance of an order to dispose:

1. The landowner shall dispose of the home within 180 days of the date the order.

2. Within 30 days of disposal of a derelict mobile home, the landowner shall notify the Department of Revenue and the Worth County Tax Commissioner of such disposal and such department shall cancel the certificate of title for such derelict mobile home, if such certificate exists.

THE ABANDONED MOBILE HOME HAD BEEN DETERMINED TO BE “INTACT”:

WHAT HAPPENS NEXT?

1. Landowner must file a lien on such abandoned mobile home in the Worth County Superior Court.
 - A. Lien shall be for the amount of unpaid rent and accrued fees.
2. Within one year from the time a lien is recorded in the Worth County Superior Court, the Landowner can proceed with a foreclosure on the intact abandoned mobile home in the Worth County Magistrate Court.
3. Landowner by certified or registered mail or statutory overnight delivery must:
 - A. Make a demand upon the responsible party in the amount of the lien and for the payment of rent and fees accrued after the filing of the lien.
 1. Rent after the filing of lien shall not exceed \$3.00 per day.
4. If the responsible party cannot be located, notice shall be published in a newspaper of general circulation for two consecutive weeks.
5. If the “RESPONSIBLE PARTY” fails to respond to such demand or refuses to pay;
 - A. Within 30 days of delivery to the appropriate address of the written demand or;
 - B. Within 30 days after the last publication in a newspaper or;
 - C. If the responsible party cannot be ascertained.
6. Landowner may move to foreclose his/her lien by making an affidavit to the Worth County Magistrate Court showing all facts necessary to constitute such lien and the amount claimed to be due.
 - A. Affidavit shall aver that the notice requirements have been complied with, and a demand for payment has been made and refused or;
 - B. The identity of the responsible party cannot be ascertained.
 - C. The landowner shall verify the statement by oath or affirmation with a signature affixed thereto.
7. In addition to the filing fees required by Code Section 15-10-80, the fee for filing such affidavit shall be \$5.00 per abandoned mobile home upon which a lien is asserted.
8. Upon filing of motion to foreclose the Landowner shall give the clerk or judge of the magistrate court the address, if known, of all responsible parties.
9. The clerk or judge of the court shall serve notice to the Responsible Party by certified mail or statutory overnight delivery or, if the responsible party is unknown, by posting such notice at the county courthouse in such place where other public notices are posted, informing such responsible parties of a right to a hearing:
 - A. To determine if reasonable cause exists to believe that a valid debt exists;
 - B. The hearing shall be petitioned for within 30 days of receipt of such notice;
 - C. And that, if no petition for such hearing is filed within the time allowed, the lien shall conclusively be deemed a valid one, foreclosure thereof allowed, and a public sale pursuant to Code Section 44-7-116 shall be authorized.
10. If a petition for a hearing is filed within 30 days of notice to Responsible Party a hearing will be scheduled within ten days of such petition.
11. If a petition is filed for a hearing the mobile home cannot be sold until the hearing is heard.
 - A. If the Court finds a reasonable cause to believe that a valid debt exists the Court may order that:
 1. The person asserting the lien shall retain possession of the home or,

2. The court shall obtain possession of the mobile home.

12. If no petition for a hearing is filed, or if, after a full hearing, the magistrate court determines that a valid debt exists, the court shall authorize foreclosure upon and sale of the mobile home subject to the lien to satisfy the debt if such debt is not otherwise immediately paid.

A. The holder of a security interest in or a lien on the mobile home, other than the holder of a lien created by the landowner, shall have the right, in the order of priority of such security interest or lien, to pay the debt and court costs no later than 15 days after the magistrate court's order to authorize the foreclosure.

B. If the holder of a security interest or lien does so pay the debt and court costs, such person shall have the right to possession of the mobile home, and that person's security interest in or lien on such mobile home shall be increased by the amount so paid.

1. A magistrate court order shall be issued to this effect, and in this instance, there shall not be a sale of the mobile home.

C. If the debt owed is not timely paid by the holder of a security interest or a petition for review of the magistrate court's decision has not been timely filed, the court shall issue an order authorizing the sale of such mobile home at public sale.

D. If the magistrate court finds the actions of the person asserting the lien in retaining possession of the mobile home were not taken in good faith, the court, in its discretion, may award damages to the mobile home owner and to any party which has been deprived of the rightful use of the mobile home.

13. APPEAL: Any Party may file a petition for review to the Clerk of the Worth County Superior or State Court.

A. Petition for Review must be filed with 7 days of the date the order was entered.

B. If the responsible party appeals, and wish to retain possession of the home he/she:

1. Shall be required to pay into the registry of the reviewing court:

a. All sums found by the magistrate court to be due;

b. All future rent as it becomes due until the issue has been finally determined on the petition for review.

PUBLIC SALE:

Public Sale means a sale:

1. Held at a place reasonably available to persons who might desire to attend and submit bids;

2. At which those attending shall be given the opportunity to bid on a competitive basis;

3. At which the sale, if made, shall be made to the highest and best bidder; and

4. Notice is given by advertisement once a week for two weeks in the newspaper in which the Worth County Sheriff's advertisements are published, and which notice shall state the day and hour, between 10:00 A.M. and 4:00 P.M., and the place of sale and shall briefly identify the goods to be sold.

AFTER SALE:

1. Person selling the home shall satisfy his lien.

2. Within 30 days after the date of such sale, provide the clerk of the magistrate court with a copy of the bill of sale as provided to the purchaser.

3. Remit the remaining proceeds of such sale, if any, to the clerk of the magistrate court.

4. Any person who fails to comply shall be guilty of a misdemeanor.

BUYER AT PUBLIC SALE:

1. Shall receive a certified copy of the court order authorizing such sale.
 - a. Purchaser may obtain a certificate of title to such mobile home by filing the required application, paying the required fees, and filing a certified copy of the order of the court with the Department of Revenue.
 - b. The Department of Revenue shall then issue a certificate of title, which shall be free and clear of all liens and encumbrances.

CLERK OF MAGISTRATE COURT:

1. The clerk of the magistrate court shall retain the remaining balance of the proceeds of a sale, after satisfaction of liens, security interests, and debts, for a period of 12 months;
2. If no claim has been filed against such proceeds by the owner of the abandoned mobile home or any interested party,
3. The clerk shall pay such remaining balance into the general fund of the municipality or county that employs the local government agent that made the determination that such mobile home was intact.