

Guidelines for Declaring a Mobile Home Derelict and For Its Destruction or Sale

Section 6-1-150 SC Code of Laws (Effective June 4, 2007)

Definitions:

Derelict mobile home means a mobile home that is

- Not connected to electricity or not connected to a source of safe potable water supply sufficient for normal residential needs, or both; **OR**
- Not connected to a Department of Environmental Control approved wastewater disposal system; **OR**
- Unoccupied for a period of at least 30 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**
- 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 mobile home, or the public.

Landowner means the owner of real property on which a derelict mobile home is located.

Local governing body means the governing body of a county or municipality.

Local official means the office or agency that is responsible for inspecting or zoning property in a county or a municipality.

Mobile 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. Mobile home includes both mobile and manufactured homes.

A. Procedure for Landowner to have mobile home declared derelict, removed, and destroyed. §§ 6-1-150(B)(2) and 29-15-10; \$80 filing fee required (fee covers the initial hearing declaring the mobile home derelict as well as the sale pursuant to § 29-15-10).

1. Landowner must first apply to the local governmental official to have the mobile home inspected. The local official must provide the landowner with written confirmation that the mobile home has been inspected and whether it meets the criteria of derelict and removal/disposal as provided in § 6-1-150 (A) (1).
2. Landowner must file a Petition for Removal and Destruction of Derelict Mobile Home (SCCA 274) with the magistrate court to obtain an order declaring the mobile home derelict, and authorizing its removal and destruction.
3. Magistrate court must hold a hearing, notifying all parties concerned (landowner, mobile home owner, lienholder, etc.), and make a determination on the petition.
 - a. Magistrate court should first determine whether a landlord/tenant relationship exists. If so, this action must be suspended to allow a separate action for ejectment, if required. After completion of ejectment, this action is recommenced.
 - b. Magistrate court shall issue Order Declaring Mobile Home Derelict (SCCA 275), reflecting its decision on the hearing.
4. Landowner next must file a Motion and Affidavit for Abandoned Mobile Home (SCCA 269), and follow the procedures set forth in § 29-15-10(C).

- a. Apply to the DMV and county auditor for the name and address of any owner or lienholder.
 - b. Provide written notice by certified or registered mail to any owners and lienholders that the local official has determined the mobile home is a derelict mobile home and that there is a pending matter in the magistrates court.
5. Landowner must post a sturdy, weatherproof notice on each door of the mobile home for 30 consecutive days reading substantially as follows:

NOTICE

**This mobile 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 landowner seeking removal) or
(name and number of magistrates court where action is pending).
(Date of Notice)**

6. In the event that the court issues an order declaring the mobile home to be derelict, and orders removal and destruction, the landowner shall send proof of the same to the county auditor pursuant to § 12-49-85(D), who shall remove the derelict mobile home permanently from the duplicate list. Upon this removal, unpaid taxes, uniform service charges, assessments, penalties, costs of collection, and other amounts billed on the tax notice, which are due as a result of the value of the derelict mobile home, are waived.
7. The court may order costs to the prevailing party in these actions upon submission of an affidavit and itemization of costs. The costs of removal and disposal are the responsibility of the owner of the derelict mobile home and may be waived only by order of the magistrate court or if a local governing body has a program that covers removal and disposal costs. A lienholder is not responsible for the costs of removal and disposal unless the lienholder or his agent affects a recovery of the mobile home under its lien and subsequently knowingly abandons the mobile home on the property and allows the same to become a derelict mobile home. A landowner who is the owner of the derelict mobile home and is unwilling or unable to pay the costs of removal and disposal, a lien for the costs of removal and disposal may be placed on the landowner's real property where the derelict mobile home was located.

B. Procedure for Landowner to have mobile home removed and sold. §§ 6-1-150(B)(1) and 29-15-10; \$35 filing fee required.

1. **Landowner does not have to have the mobile home declared derelict.**
2. Landowner must file a Motion and Affidavit for Abandoned Mobile Home (SCCA 269) and follow the procedures set forth in § 29-15-10(C):
 - a. Apply to the DMV and county auditor for the name and address of any owner or lienholder.
 - b. Provide written notice by certified or registered mail to any owners and lienholders that the local official has determined the mobile home is a derelict mobile home and that there is a pending matter in the magistrate court.

3. Landowner must post a sturdy, **weatherproof** notice on each door of the mobile home for 30 consecutive days reading substantially as follows:

NOTICE

**This mobile 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 landowner seeking removal) or
(name and number of magistrates court where action is pending).
(Date of Notice)**

4. The court shall comply with all requirements of § 29-15-10 in order to sell the mobile home. A final hearing should be held on the matter, with notice given to all interested parties (landowner, mobile home owner, lienholder, etc.). The determination on the matter shall be reflected in the Court's issuance of Order for Removal and Sale/Destruction of Derelict Mobile Home (SCCA 276). The Court then holds a public sale of the mobile home, culminating in the issuance of an Order of Sale (SCCA 277).
5. The court may order costs to the prevailing party in these actions. See A.7. above.

C. Procedure for Local Official to have mobile home declared derelict and destroyed. §§ 6-1-150(C)(2) and 29-15-10; \$80 filing fee required (fee covers the initial hearing declaring the mobile home derelict as well as the sale pursuant to § 29-15-10).

1. Local official must provide the court with written confirmation that the mobile home has been inspected and meets the criteria set forth in § 6-1-150 (A)(1) and is eligible for removal and disposal.
2. Local official must file a Petition for Removal and Destruction of Derelict Mobile Home (SCCA 274) with the magistrate court to obtain an order declaring the mobile home derelict, and authorizing its removal and destruction.
3. Magistrate court must hold a hearing, notifying all parties concerned (landowner, mobile home owner, lienholder, etc.), and make a determination on the petition.
4. Magistrate court shall issue Order Declaring Mobile Home Derelict (SCCA 275), reflecting its decision on the hearing.
5. Local official next must file a Motion and Affidavit for Abandoned Mobile Home (SCCA 269) and follow the procedures set forth in § 29-15-10(C):
 - a. Apply to the DMV and the county auditor for the name and address of any owner or lienholder.
 - b. Provide written notice by certified or registered mail to any owners and lienholders that the local official has determined the mobile home is a derelict mobile home and that there is a pending matter in the magistrates court.
6. Local official must post a sturdy, **weatherproof** notice on each door of the mobile home for 30 consecutive days reading substantially as follows:

NOTICE

This mobile 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 landowner seeking removal) or
(name and number of magistrates court where action is pending).
(Date of Notice)**

7. In the event there is a tenant, the local official must file the appropriate paperwork to remove the tenant prior to destruction of the mobile home.
8. The court may order costs to the prevailing party in these actions. See A.7. above.

**D. Procedure for Local Official to have mobile home declared derelict and sold.
§ 6-1-150(C)(1); \$80 filing fee required (fee covers the initial hearing declaring the mobile home derelict as well as the sale pursuant to § 29-15-10).**

1. Local official must provide the court with written confirmation that the mobile home has been inspected and meets the criteria set forth in § 6-1-150 (A)(1) and is eligible for removal and disposal.
2. Local official must file a Petition for Removal and Destruction of Derelict Mobile Home (SCCA 274) with the magistrate court to obtain an order declaring the mobile home derelict, and authorizing its removal and destruction.
3. Magistrate court must hold a hearing, notifying all parties concerned (landowner, mobile home owner, lienholder, etc.), and make a determination on the petition.
4. Magistrate court shall issue Order Declaring Mobile Home Derelict (SCCA 275), reflecting its decision on the hearing.
 - c. Local Official next must file a Motion and Affidavit for Abandoned Mobile Home (SCCA 269) and follow the procedures set forth in § 29-15-10(C):
 - a. Apply to the DMV and the county auditor for the name and address of any owner or lienholder.
 - b. Provide written notice by certified or registered mail to any owners and lienholders that the local official has determined the mobile home is a derelict mobile home and that there is a pending matter in the magistrates court.
5. Local Official must post a sturdy, **weatherproof** notice on each door of the mobile home for 30 consecutive days reading substantially as follows:

NOTICE

**This mobile 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 landowner seeking removal) or
(name and number of magistrates court where action is pending).
(Date of Notice)**

6. The court shall comply with all requirements of § 29-15-10 in order to sell the mobile home. A final hearing should be held on the matter, with notice given to all interested parties (landowner, mobile home owner, lienholder, etc.). The determination on the matter shall be reflected in the Court's issuance of Order for Removal and

Sale/Destruction of Derelict Mobile Home (SCCA 276). The Court then holds a public sale of the mobile home, culminating in the issuance of an Order of Sale (SCCA 277).

7. In the event there is a tenant, the local official must file the appropriate paperwork to remove the tenant prior to destruction of the mobile home.
8. The court may order costs to the prevailing party in these actions. See A.7. above.