

§ 92.04 ABATEMENT PROCEDURE.

(A) Except as provided in division (B) it shall be unlawful for the owner, occupant, or person having control or management of any land within the city to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of:

- (1) Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment;
- (2) One or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or nonoperative and which are not inhabited;
- (3) Rubbish; or
- (4) The excessive growth of weeds or grass.

(B) The provisions of division (A)(1) of this section shall not apply to:

- (1) Junked, wrecked, or nonoperative automobiles, vehicles, machines, or other similar scrap or salvage materials located on the business premises of a licensed automotive recycling dealer as defined under the provisions of KRS 190.010(8);
- (2) Junked, wrecked, or nonoperative motor vehicles, including parts cars, stored on private real property by automobile collectors, whether as a hobby or a profession, if these motor vehicles and parts cars are stored out of ordinary public view by means of suitable fencing, trees, shrubbery, or other means; and
- (3) Any motor vehicle as defined in KRS 281.011 that is owned, controlled, operated, managed, or leased by a motor carrier.

(C) It shall be unlawful in the city for the owner of a property to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of the city, county, consolidated local government, or urban-county.

(D) The city may establish by ordinance reasonable standards and procedures for the enforcement of this section. The procedures shall comply with all applicable statutes, administrative regulations, or codes. Proper notice shall be given to property owners before any action is taken pursuant to this section; and, prior to the demolition of any unfit or unsafe structure, the right to a hearing shall be afforded the property owner.

(E) Unless imminent danger exists on the subject property that necessitates immediate action, the city government shall send, within 14 days of a final determination after hearing or waiver of hearing by the property owner, a copy of the determination to any lien holder of record of the subject property by first-class mail with proof of mailing. The lien holder of record may,

within 45 days from receipt of that notice, correct the violations cited or elect to pay all fines, penalty charges, and costs incurred in remedying the situation as permitted by division (F) of this section.

(F) The city shall have a lien against the property for the reasonable value of labor and materials used in remedying the situation. The affidavit of the responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this statute, and shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other liens, except state, county, school board, and city taxes, except as provided in division (G) of this section. The lien may be enforced by judicial proceeding.

(G) The lien provided in division (F) of this section shall not take precedence or priority over a previously recorded lien if:

(1) The city government failed to provide the lien holder a copy of the determination in accordance with division (E) of this section; or

(2) The lien holder received a copy of the determination as required by division (E) of this section, and the lien holder corrected the violations or paid the fines, penalty charges, and costs incurred in remedying the violation.

(H) In addition to the remedy prescribed in division (D) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the city may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed. The failure of the city government to comply with division (E) of this section, and the failure of a lien to take precedence over previously filed liens as provided in division (G) of this section, shall not limit or restrict any remedies that the city government has against the owner of the property.

(I) The provisions of divisions (D), (F), and (H) of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant, or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of the rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto the property.

(KRS 381.770)