

65.8840 Abatement of nuisance -- Exceptions -- Enforcement ordinance -- Lien -- Personal liability of property owner -- Right to farm exception.

- (1) As used in this section:
 - (a) "Abatement costs" means a local government's necessary and reasonable costs for and associated with clearing, preventing unauthorized entry to, or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises necessary to remedy a violation and to maintain and preserve public health, safety, and welfare in accordance with any local government ordinance;
 - (b) "Automobile collector" means a person who collects and restores motor vehicles;
 - (c) "Code enforcement board" means an administrative body created and acting under the authority of KRS 65.8801 to 65.8839;
 - (d) "Code enforcement officer" means a city police officer, safety officer, citation officer, county police officer, sheriff, deputy sheriff, university police officer, airport police officer, or other public law enforcement officer with the authority to issue a citation;
 - (e) "Imminent danger" means a condition which is likely to cause serious or life-threatening injury or death at any time;
 - (f) "Local government" means any county, consolidated local government, urban-county government, charter county government, unified local government, or city of any class;
 - (g) "Ordinance" means an official action of a local government body, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by a local government which embodies all or part of an ordinance;
 - (h) "Ordinary public view" means a sight line within normal visual range by a person on a public street or sidewalk adjacent to real property;
 - (i) "Owner" means a person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property;
 - (j) "Parts car" means an automobile that is not intended to be operated along streets and roads, but is used to provide parts for the restoration of other automobiles; and
 - (k) "Premises" means a lot, plot, or parcel of land, including any structures upon it.
- (2)
 - (a) The provisions of this section may be enforced through a code enforcement board pursuant to KRS 65.8801 to 65.8839, or by any other means authorized by law, including but not limited to direct enforcement through the enactment of an ordinance as provided in subsection (7) of this section.
 - (b) If the provisions of this section are enforced through a code enforcement board pursuant to KRS 65.8801 to 65.8839, the provisions of subsections (8), (9), and (10) of this section shall not apply, and KRS 65.8801 to 65.8839 shall

supersede any conflicting provisions of this section.

- (3) Except as provided in subsection (4) of this section, it shall be unlawful for the owner, occupant, or person having control or management of any premises within a local government to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of:
 - (a) Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment;
 - (b) One (1) or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or inoperative and which are not inhabited;
 - (c) Rubbish; or
 - (d) The excessive growth of weeds or grass.
- (4) The provisions of subsection (3)(a) of this section shall not apply to:
 - (a) Junked, wrecked, or inoperative automobiles, vehicles, machines, or other similar scrap or salvage materials located on the business premises of a:
 1. Licensed automotive recycling dealer as described in KRS 190.010(8);
 2. Used motor vehicle dealer as defined in KRS 190.010(6); or
 3. Motor vehicle auction dealer as defined in KRS 190.010(11);
 - (b) Junked, wrecked, or inoperative motor vehicles, including parts cars, stored on private premises 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
 - (c) Any motor vehicle as defined in KRS 281.010 that is owned, controlled, operated, managed, or leased by a motor carrier.
- (5) An owner shall not permit any structure upon his or her premises to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist on the structure or premises 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 local government.
- (6) A local government may provide by ordinance for the abatement and decontamination of a property where a methamphetamine contamination notice has been posted as provided in KRS 224.1-410. Pursuant to subsections (7) and (8) of this section, notice and an opportunity to request a hearing shall be afforded to an owner prior to decontamination of the property. A lien for all fees, charges, and costs incurred by the local government in the enforcement of an ordinance related to decontaminating a property where a methamphetamine contamination notice has been posted pursuant to KRS 224.1-410 shall be placed on the property pursuant to subsection (9) of this section. Notwithstanding subsections (12) and (13) of this section, the costs of abatement and decontamination of a property where a methamphetamine contamination notice has been posted are recoverable throughout the county.
- (7) Any local government 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. Any ordinance establishing these procedures may be enforced by any means authorized by law. Proper notice shall be given to owners before any action is taken pursuant to this section, and, prior to the decontamination of a property where a methamphetamine contamination notice has been posted pursuant to KRS 224.1-410 or the demolition of any unfit or unsafe structure, the opportunity to request a hearing shall be afforded the owner.

- (8) Unless imminent danger exists on the subject premises that necessitates immediate action, the local government shall send, within fourteen (14) days of a final determination after hearing or waiver of hearing by the owner, a copy of the determination to any lien holder of record of the subject premises by first-class mail with proof of mailing. The lien holder of record may, within forty-five (45) days from receipt of that notice, correct the violations cited or elect to pay all civil fines assessed for the violation and all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs, as permitted by subsection (9) of this section.
- (9) A local government shall have a lien against the property for all civil fines assessed for the violation and for all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs. The affidavit of the code enforcement officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this section, 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 subsection (10) of this section. The local government shall possess the lien for ten (10) years following the date of the final, nonappealable order of a code enforcement board or final judgment of the court. The lien may be enforced by judicial proceeding.
- (10) The lien provided in subsection (9) of this section shall not take precedence or priority over a previously recorded lien if:
 - (a) The local government failed to provide the lien holder a copy of the determination in accordance with subsection (8) of this section; or
 - (b) The lien holder received a copy of the determination as required by subsection (8) of this section, and the lien holder corrected the violations or paid all civil fines assessed for the violation and all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs.
- (11) In addition to the remedy prescribed in subsection (7) of this section or any other remedy authorized by law, the owner of a premises upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all civil fines assessed for the violation and all charges, fees, and abatement costs incurred by the local government in connection with the enforcement of the ordinance. The local government 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 a local government to comply with subsection (8) of this

section, and the failure of a lien to take precedence over previously filed liens as provided in subsection (10) of this section, shall not limit or restrict any remedies that the local government has against the owner of the premises.

- (12) The provisions of subsections (7), (9), and (11) 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 premises.
- (13) The provisions of this section shall not be enforced by a county government upon any premises situated in an unincorporated portion of the county that is assessed as agricultural land for tax purposes by the property valuation administrator.
- (14) The right to request a hearing pursuant to this section shall be limited to a period of thirty (30) days after notice has been placed on the property and has been sent by certified mail return receipt requested.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 52, sec. 2, effective June 27, 2019. -- Created 2016 Ky. Acts ch. 86, sec. 13, effective July 15, 2016.