

RESOLUTION NO. 2022-13

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF FAIRFIELD BAY
DECLARING A PUBLIC NUISANCE AT
108 RAINBOW COURT;
PROVIDING NOTICE OF
POTENTIAL CONDEMNATION OF THE STRUCTURES AT
108 RAINBOW COURT AS A RESULT OF THE
NUISANCE THEREON;
IMPOSING A STATUTORY FINE
IN THE EVENT OF FAILURE TO ABATE
THE NUISANCE; AND
FOR OTHER PURPOSES**

WHEREAS, The City of Fairfield Bay has notified the owner of the real property located at 108 Rainbow Court, Terry Reece, more than thirty days prior to consideration of this Resolution, that the property would be subject to nuisance proceedings (after sewer service was disconnected), and further would be subject to condemnation proceedings if the nuisance is not abated; and

WHEREAS, the City of Fairfield Bay Building Official timely delivered written NOTICE OF VIOLATION of the Municipal Code of the City of Fairfield Bay, by posting on the real property, and by mailing by certified and regular mail, sufficient notice to the owners, tenants, occupants, and spouses of the same, more than fourteen (14) days prior to the City Council Meeting in which this Resolution is first to be considered; and

WHEREAS, there has been no response from any owner, tenant, occupant, Terry Reece, or spouse of the same, for more than fourteen (14) days since delivery of appropriate written notice of the violations of the Municipal Code of the City of Fairfield Bay; and

WHEREAS, the posted written NOTICE on the real property remained in place for at least ten (10) days; and

WHEREAS, the real property located at 108 Rainbow Court, Fairfield Bay, is, and continues to be, a nuisance as the result of, *inter alia*, its failure to have a working sewer hookup, in violation of the Arkansas State Plumbing Code, which requires a sewer connection (Code

Sections 108.7.3, 404, and 701.2 (sewer required)), which is a hazard to the health of the citizens of Fairfield Bay, notwithstanding efforts by the Building Official to have the matters resolved;


NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRFIELD BAY:

1. That, in accordance with the report made to the Mayor by the Building Official, as reported at the City Council Meeting, and in accordance with the written notice previously provided to the owners, tenants, and occupants of 108 Rainbow Court, Fairfield Bay, the real property at 108 Rainbow Court, also known as part of Section 18, Township 11 N, Range 12 W, Lot No. 036, Block 3 in the City of Fairfield Bay, subdivision 2 (Lakewood Subdivision), Van Buren County, Arkansas, is **FOUND TO HAVE BEEN VIOLATING** Section 701.2 of the Arkansas State Plumbing Code (lack of sanitary sewer connection), and that the structure has been rendered uninhabitable, for more than thirty consecutive days, which has become a safety hazard to the public, and which is additionally adversely and materially affecting the value of real property within the City of Fairfield Bay.
2. That the owners, heirs, tenants, and occupants, of 108 Rainbow Court, have failed and refused to abate the foregoing violations of the Municipal Code, and the Arkansas State Plumbing Code, notwithstanding the written notice provided by certified mail, first class mail, and by posting on the real property.
3. **IT IS THEREFORE FOUND, DETERMINED, AND DECLARED** by the City Council of the City of Fairfield Bay that the real property, located at 108 Rainbow Court, including all improvements thereon, and specifically including any structures located on the real property, such as a mobile home, trailer, and other attached structure, **CONSTITUTE A NUISANCE** in accordance with Section 11.16.01 of the Municipal Code of the City of Fairfield Bay.
4. **IT IS FURTHER ORDERED** that any house, building, mobile home, trailer, and other attached structure at that location, **MAY BE CONDEMNED** to insure the removal thereof as provided in the Municipal Code, Section 11.16.02, if the nuisance is not abated within thirty (30) days of the posting, mailing, and publication of written notice of this **RESOLUTION**.
5. **IT IS FURTHER ORDERED** that a copy of this **RESOLUTION** be **POSTED ON THE REAL PROPERTY**, and delivered to the **OWNERS, TENANTS,**

OCCUPANTS, and any spouse of any OWNER, TENANT, or OCCUPANT, by regular first class mail, and by certified mail with a return receipt requested, and specifically delivered to the attention of Terry Reece, at 179 Reece Lane, Marshall, AR 72650, and to the spouse of Terry Reece, if any, at the same address. Separate Notices shall also be addressed and delivered to Rosemary Hammac, 285 Dearien Lane, Mountain View, AR 72560, and the spouse of Rosemary Hammac, if any, at that address. Separate Notices shall also be addressed to Owner, Tenants, and Occupants, and spouse of Owner, spouse of Tenant, and spouse of Occupant, and must likewise be delivered to 108 Rainbow Court by both regular first class mail and by certified mail. A TRUE OR CERTIFIED COPY OF THIS RESOLUTION shall be included in all notices delivered pursuant to this paragraph.


6. A copy of this Resolution shall be inserted into a newspaper of general circulation in Van Buren County for at least two (2) separate publication dates (assuming single publication per week).
7. That the house, building, mobile home, trailer, and other structures located on the real property located at 108 Rainbow Court, in Fairfield Bay, Van Buren County, Arkansas, may be torn down and removed by the Building Official of the City of Fairfield Bay, upon a Resolution of Condemnation by the City Council, ***UNLESS the nuisance has been abated, or the structures torn down, and removed by the owner, tenants, occupants, or others interested in the real property WITHIN THIRTY (30) DAYS OF THE DATE OF THE FIRST PUBLICATION OF THIS NOTICE IN THE NEWSPAPER OF GENERAL CIRCULATION IN VAN BUREN COUNTY, and no sooner than thirty (30) days after the date of this Resolution, and no sooner than thirty (30) days after the date of mailing the notices required hereinabove.***
8. That the City of Fairfield Bay shall have a lien against the real property if the City has any net loss resulting from the costs in abatement, destruction or removal of any house, building or structure. Section 11.16.08 of the Municipal Code of the City of Fairfield Bay; Ark. Code Ann. §14-54-904.
9. FINE FOR NUISANCE: In accordance with Municipal Code Section 11.16.09, a FINE OF \$500.00 (FIVE HUNDRED DOLLARS) is hereby imposed against the owner or owners of the building and structure described herein, unless such nuisance is abated within thirty (30) days of the posting, mailing, and publication of Notice of this Resolution. After thirty days has expired without abatement of the nuisance, each separate day the nuisance continues unabated shall constitute a separate offense, for which the City may impose a fine of \$250.00 per day, in accordance with the Municipal Code.

PASSED THIS 9th day of May, 2022, at the Regular City Council Meeting.



Honorable Linda Duncan, Mayor
City of Fairfield Bay

A true copy, ATTEST:



Rose O. Owen, Recorder-Treasurer
City of Fairfield Bay

Prepared and approved:
Kelly Law Firm, PLC
Attorney for City of Fairfield Bay
Rev2: May 9, 2022
As revised by Council on 5-9-22