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RESOLUTION NO. 2020-02

Whereas cities of the first class, cities of the second class, and incorporated towns may order the removal or razing of, or remove or raze, buildings or houses that the city council or town council believe to be dilapidated, unsightly, unsafe, unsanitary, obnoxious, or detrimental to the public welfare if they provide by ordinance the manner of removing and making those removals, Arkansas Code Annotated § 14-56-203;

Whereas incorporated towns and cities of the first and second class are empowered to order the owner of lots and other real property within their towns or cities to cut weeds; to remove garbage, rubbish, and other unsightly and unsanitary articles and things upon the property; and to eliminate, fill up, or remove stagnant pools of water or any other unsanitary thing, place, or condition which might become a breeding place for mosquitoes, flies, and germs harmful to the health of the community, after the town or city has provided therefor by an ordinance to that effect, Arkansas Code Annotated § 14-54-901;

Whereas if an owner or lienholder of any lot or other real property within an incorporated town or city neglects or refuses to remove, abate, or

eliminate any condition under an ordinance passed by the city or town as provided in Ark. Code Ann. § 14-54-901, after seven days' written notice to do so, the city or town may do whatever is necessary to correct the condition and to charge the cost thereof to the owner of the lots or other real property;

Whereas a town or city is given a lien against the property for the costs, including all administrative and collection costs, if the lien is filed with the circuit clerk no later than one hundred twenty days after the town or city completes the clean-up work on the property, and a town or city may perfect its clean-up lien as a lien against the property if the property contains an unsafe and vacant structure, or has been cited as a weed lot, and the city gives notice to the landowner after the work is completed, Arkansas Code Annotated § 14-54-903(c)(1);

Whereas a city or town may secure a priority clean-up lien by providing seven business days' notice to lienholders of record before undertaking any work at the property, by providing a second notice to the owner and the lienholders of record, and by filing an action in the circuit court within which the property is located seeking a declaration that the clean-up lien is entitled to priority over previously recorded liens, which allows the city's clean-up lien

to take priority over all other lienholders, Arkansas Code Annotated §§ 14-54-903(c)(7)(A) & (e)(1) & (j)(1);

Whereas the amount of any clean-up lien may be determined at a public hearing before the governing body of the city or town held after thirty days' written notice by mail, return receipt requested, to the owner of the property and to the lienholders of record;

Whereas a city has an inherent recognized authority to declare a building to be a nuisance, *McLean v. City of Fort Smith*, 185 Ark. 582, 48 S.W.2d 228 (1932);

Whereas the City of Pleasant Plains, Arkansas, passed, published, and currently has in effect Ordinance No. 2018-02, codifying its authority to condemn, raze, and effectuate its above-referenced public authority; and

Whereas reasonable cause was shown to the City Council of the City of Pleasant Plains, Arkansas, that the property located on or about 55 Floral Road believed to be on a part of the Southeast Quarter of the Northwest Quarter of Section 27, Township 11 North, Range 6 West, described as beginning at the Northeast Corner of aforesaid 40 acre tract; thence run West 600 feet to the Northwest corner of the "Hook Tract" for the Beginning Point

of the parcel; thence South 265 feet; thence West 105 feet; thence North 265 feet; thence East 105 feet to the Point of Beginning, containing $\frac{3}{5}$ of an acre, more or less, and located within the corporate limits of the City of Pleasant Plains, Arkansas, which is believed to be owned by Brent Henderson, is in violation of this ordinance;

The City Council of the City of Pleasant Plains, Arkansas, therefore resolves as follows:

1. Reasonable cause exists to believe that Ordinance 2018-02 has been violated by the property located on or about 55 Floral Road on a part of the Southeast Quarter of the Northwest Quarter of Section 27, Township 11 North, Range 6 West, described as beginning at the Northeast Corner of aforesaid 40 acre tract; thence run West 600 feet to the Northwest corner of the "Hook Tract" for the Beginning Point of the parcel; thence South 265 feet; thence West 105 feet; thence North 265 feet; thence East 105 feet to the Point of Beginning, containing $\frac{3}{5}$ of an acre, more or less, and located within the corporate limits of the City of Pleasant Plains, Arkansas, which is believed to be owned by Brent Henderson, because it contains the following conditions:

- (A) Buildings that are dilapidated, unsightly, unsafe, unsanitary, obnoxious, and detrimental to the public welfare, including a dilapidated barn missing part of its roof, with broken doors and windows in violation of Section 1.(A);
- (B) Weeds, garbage, rubbish, and other unsightly and unsanitary articles and things upon the property, and stagnant pools of water, and other unsanitary things, places, and condition which might become a breeding place for mosquitoes, flies, and germs harmful to the health of the community, including a chicken litter pile, a chicken litter mixing area, a garbage pile, stagnant standing water, and spare tires, and the noxious fumes and mosquitos, mice, rats, and snakes attracted by those conditions in violation of Section 2(B); and
- (C) Other conditions that constitute a nuisance including the aforementioned dilapidated barn, chicken litter pile, garbage pile, stagnant standing water, spare tires, and the

noxious fumes and mosquitos, mice, rats, and snakes attracted by those conditions, the dangers posed by those conditions to the Citizens of the City of Pleasant Plains, Arkansas, in violation of Section 1(C).

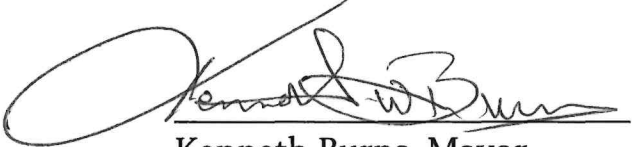
2. Brent Henderson and all persons owning or occupying the property located on or about 55 Floral Road on a part of the Southeast Quarter of the Northwest Quarter of Section 27, Township 11 North, Range 6 West, described as beginning at the Northeast Corner of aforesaid 40 acre tract; thence run West 600 feet to the Northwest corner of the "Hook Tract" for the Beginning Point of the parcel; thence South 265 feet; thence West 105 feet; thence North 265 feet; thence East 105 feet to the Point of Beginning, containing $\frac{3}{5}$ of an acre, more or less, and located within the corporate limits of the City of Pleasant Plains, Arkansas, shall remedy this violation within 10 business days of the service of this resolution on Mr. Brent Henderson, which is not less than ten business days from the date of this resolution. The potential consequences for failing to remedy the alleged violations include the imposition of a lien upon the property including all collection costs, attorney's costs, and lien amounts as provided by law,

including the costs to remedy, remediate, and eliminate the above-cited violations of this City Ordinance, including condemnation and razing of the barn and removal and destruction of all chicken litter piles, chicken litter mixing areas, garbage piles, stagnant water, and spare tires; the sale of the property to satisfy those amounts incurred by the City of Pleasant Plains, Arkansas, and all other remedies as provided by law and Ordinance 2018-02 to remedy the violation of that Ordinance.

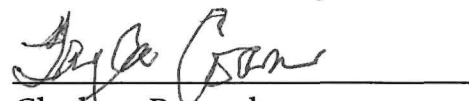
3. The City Council may further consider a resolution declaring this property to be in violation of this ordinance at a subsequent meeting, as provided in Ordinance 2018-02, Section 3, and further follow the procedure in that ordinance for condemning, razing, and remedying any declared violations in accordance with that Ordinance.

4. This resolution has been approved by a majority of the city council members elected to that position. ARK. CODE ANN. § 14-55-203.

PASSED AND APPROVED THIS 8th DAY OF October, 2020.



Kenneth Burns, Mayor



Clerk or Recorder