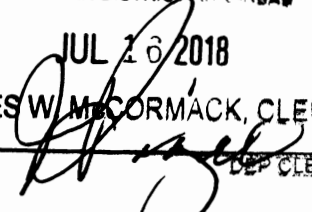


THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

JUL 16 2018

JAMES W. MCCORMACK, CLERK
By:  DEPT. CLERK

BEVERLY KILPATRICK, VENEDA
MARSHALL, ROBERT MARSHALL,
BECKY ALTOM, JONATHAN JARVIS,

Plaintiffs,

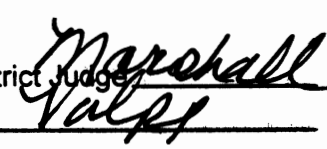
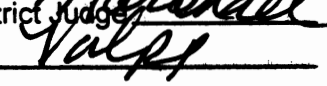
v.

CITY OF NEWARK,
JIM CUNNINGHAM,
in his Official Capacity as Mayor,
JOANNE LANGSTON, in her Official
Capacity as Recorder,

Defendants.

Case No. **1:18cv53-DPM**

JURY DEMANDED

This case assigned to District Judge 
and to Magistrate Judge 

COMPLAINT

Introduction

1. This case is about the City of Newark discriminating against some of Independence County's poorest residents simply because they are too impoverished to afford an expensive home. In 2015, the City Council passed an ordinance forbidding any manufactured home¹ worth less than \$25,000 (single-wide) or \$35,000 (double-wide) from existing within the city limits, punishable by fines of up to \$500 for each day a person lives in a home valued below these arbitrary amounts. Newark's "Exclusion Ordinance" has nothing to do with the health or safety conditions of a given manufactured home. It is simply a discriminatory attempt to exclude those who are not "worthy" — in other words, not wealthy enough — from living in the city.

¹ "Manufactured Home" refers to any structure that complies with the requirements in the National Mobile Home Construction and Safety Standards Act of 1974, codified at 42 U.S.C. § 1504 *et seq.* In common speech, a "manufactured home" and "mobile home" both refer to a structure that complies with federal regulations which was assembled elsewhere and installed on a plot of land with access to all utilities. In this Complaint, the two terms are used interchangeably.

2. Plaintiffs are potential renters and homeowners that wish to be part of the Newark community — either as tenants or affordable housing providers — but have been excluded from the city because they cannot afford to comply with the Ordinance’s arbitrary appraisal values. Plaintiff Beverly Kilpatrick is an aspiring renter living near the federal poverty line that has wanted to move to Newark for nearly ten years, but can only afford to rent a low-priced manufactured home — a feat nearly impossible due to the city’s Exclusion Ordinance. Plaintiffs Veneda Marshall and Robert Marshall are residents of Independence County who desire to rent mobile homes at an affordable price to people who want to live in Newark, but are prevented from offering more housing due to the Exclusion Ordinance. Plaintiff Becky Altom is a woman with disabilities and limited financial resources who rents out affordable mobile homes in Newark. Although she urgently needs more rental income to support herself, she was prevented from placing a double-wide mobile home on her property because it would not appraise for the required \$35,000. Plaintiff Jon Jarvis is a county resident who was forced by Defendant Cunningham to remove his newly-renovated mobile home from his property (and from the city limits entirely) because it was not worth enough money, depriving a pending low-income renter of a place to live.

3. The City of Newark bans mobile homes unless the owner can establish by a certified appraiser or a bill of sale a value over \$25,000 or \$35,000, depending on the size of the home. Individuals like Ms. Kilpatrick are unable to live in Newark *only* because the City has set an arbitrary monetary requirement for residence that she cannot meet. Newark’s ordinance is, therefore, a thinly veiled attempt to prevent people with lower incomes from moving into Newark.

4. Because Newark's Exclusion Ordinance takes into account only appraisal value — as opposed to legitimate health and safety concerns — it can only be explained as a government-sanctioned discrimination against impoverished people and an attempt ban them from living in the city.

5. If Plaintiffs Marshall, Altom, and Jarvis could afford to buy mobile homes valued at more than the amounts set forth in the Exclusion Ordinance, they would be permitted to place those homes on their properties in Newark. Because the only criterion preventing Plaintiffs from renting homes or living in manufactured housing in Newark is the appraised value of the home, Newark is operating a wealth-based exclusion scheme.

6. Plaintiffs challenge Newark's Exclusion Ordinance because it unconstitutionally (1) penalizes wealth-status and thus violates the Constitution's proscription against criminalization of status; (2) discriminates on the basis of wealth and home value without any rational connection to a legitimate government interest in violation of the Equal Protection Clause; (3) imposes excessive fines for people whose homes do not comply with the ordinance in violation of the Eighth Amendment; and (4) violates procedural due process by banning noncompliant homes and imposing punishment for noncompliant homes without providing adequate legal protections.

7. By and through their attorneys, on behalf of themselves and others similarly situated, Plaintiffs seek injunctive relief preventing future enforcement of the Exclusion Ordinance and a declaration that the Exclusion Ordinance is unconstitutional. Defendants cannot block people from moving into the City simply because they are poor.

Nature of the Action

8. The City of Newark has enacted an ordinance (Ordinance 2015-01, or the “Exclusion Ordinance”) prohibiting the placement of mobile homes within the City unless a bill of sale or national appraisal guide confirms that the home is worth at least \$25,000 (single wide) or \$35,000 (double wide). *See* Exhibit 1, Ordinance at § 3.E. Violation of the ban is punishable by fines between \$50 and \$500 per day, with no limit on the total amount of fines that can be accumulated and imposed. *Id.* at § 5. In essence, Defendants criminalize poverty — they punish individuals who cannot afford an expensive home and those who are not wealthy enough to be “desired” as city residents.

9. Any individual who sets up a home not expensive enough to meet the City’s demands has two choices: pay exorbitant fines every day that their home exists, or dismantle their home immediately and leave the city limits, effectively banishing them from the community based solely on their wealth-status. Defendants’ scheme is not health or safety focused. It can only be explained as animus against people who are impoverished and whose homes do not reflect an “acceptable” amount of wealth. Plaintiffs seek declaratory and injunctive relief prohibiting Defendants’ wealth-based exclusion scheme.

Jurisdiction and Venue

10. This is a civil rights action arising under 42 U.S.C. § 1983 and 28 U.S.C. § 2201, *et seq.*, the Fourteenth Amendment and Eighth Amendment to the United States Constitution. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, and 1367.

11. Venue in this Court is proper under 28 U.S.C. § 1391.

Parties

12. Plaintiff Beverly Kilpatrick and her husband are potential renters who have been trying for at least five years to find a mobile home in Newark that they can afford. Because of

the Exclusion Ordinance, the affordable housing they seek is not available and they have been effectively banned from the city.

13. Plaintiffs Veneda and Robert Marshall are long-time residents of Independence County who live approximately four miles outside the Newark city limits. They live off Mr. Marshall's social security income and must supplement it with rental income to make ends meet. They do so by providing affordable housing to area residents by renting out mobile homes on property they own in Newark.

14. Plaintiff Becky Altom is a former health-care provider who had to stop working due to a significant wrist injury that left her permanently disabled. Because she could no longer work full time, she intended to support herself by renting the three mobile homes on her property in the city limits. When that income was insufficient, she tried to set up a fourth mobile home on her property but was banned from doing so solely because the home was not appraised at a high enough value. As a result, Ms. Altom cannot support herself on her current rental income and she must continue to work as a home health care provider — in spite of her disability — to make ends meet.

15. Plaintiff Jon Jarvis placed a newly-renovated, habitable mobile home on his property in Newark, but was forced to remove it because it would not appraise at the required amount. Defendants forced Mr. Jarvis to dismantle and remove his mobile home, vacate his land in Newark, and forfeit \$3,000 in moving costs.

16. Defendant City of Newark is a local government entity organized under the laws of the State of Arkansas.

17. Defendant Jim Cunningham is the Mayor of the City of Newark. As Mayor, Defendant Cunningham is responsible for enforcement of all city ordinances and laws. Defendant Cunningham is sued in his official municipal capacity as the Mayor of Newark.

18. Defendant Joanne Langston is the City Recorder-Treasurer of the City of Newark. Defendant Langston reports directly to the Mayor and is responsible for overseeing records and enforcing the ordinances and laws of the City. Defendant Langston is sued in her official capacity as the City Recorder-Treasurer of the City of Newark.

19. Under *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978), Defendant City of Newark and all City officials are liable for the enforcement of the municipality's unconstitutional policies and practices.

20. Under *Ex Parte Young*, 209 U.S. 123 (1908), the Mayor and the City Recorder-Treasurer in their official capacities can be enjoined from enforcing unconstitutional local laws.

Factual Allegations

A. Defendants Ban Those Who Are Too Poor to Live in Homes Worth More than \$25,000 from the City

21. On January 13, 2015, the City Council of the City of Newark passed Ordinance No. 2015-01, titled "Regulating Trailers, Mobile Homes, Manufactured Housing, Trailer Parks, and Other Purposes." (the "Exclusion Ordinance"). Ex. 1.

22. The 2015 Exclusion Ordinance stipulates, "No trailer shall be placed within the City of Newark unless it has a value established by a national appraisal guide of not less than \$25,000 (twenty five thousand dollars) for a single wide home and \$35,000 (thirty five thousand dollars) for a double wide." *Id.* at § 3E.

23. The ordinance provides that “[a] violation of this ordinance shall be punishable by a fine of not less than \$50.00 nor more than \$500.00 and each day a violation exists shall constitute a separate offense.” *Id.* at Section 5.

24. Under the terms of the Exclusion Ordinance, simply living — or trying to live — in Newark but being too poor to afford a more expensive home is sufficient for a punishable violation.

25. The practical effect of the wealth-based Exclusion Ordinance is to ensure that lower-income individuals are banned from the city based solely on their inability to afford a home that satisfies the Defendants. The intent of Defendants is clear — they wish to exclude individuals who live in lower-value homes and to limit affordable housing options in the city so that only those who are “worthy,” or wealthy enough, can be part of their exclusive community.

26. Defendants’ wealth-based exclusion scheme exacerbates a serious problem in the state of Arkansas: the lack of access to affordable housing. For every 100 households of working families living on “extremely low income” in the state, Arkansas only has 50 affordable housing units available. Andrew Aurand, Ph.D., et al., “The Gap: A Shortage of Affordable Homes,” National Low Income Housing Coalition (Mar. 2017).² Astoundingly, this leaves *half* of Arkansans struggling financially without adequate home options.

27. Lack of affordable housing creates a vicious cycle for those already living with the hardship of poverty; without stable housing, community members are less likely to find and keep stable employment, carry out family responsibilities, and be positive members of society.

28. Defendants’ animus toward individuals who cannot afford mobile homes valued at over the \$25,000/\$35,000 violates the Constitution, places a chokehold on the availability of

² nlihc.org/sites/default/files/Gap-Report_2017.pdf

affordable housing, and has effectively banished Plaintiffs — renters and affordable housing providers that would improve the community — from Newark on the basis of their wealth.

Plaintiff Beverly Kilpatrick

29. Ms. Kilpatrick is a 63-year-old woman who lives with her husband in a one-bedroom apartment in Batesville that is too small for them. Ex. 2, Kilpatrick Decl. Ms. Kilpatrick used to be employed in retail jobs but is unable to work due to her health, and her husband is retired. *Id.* They are living on a fixed income from social security. *Id.*

30. Ms. Kilpatrick and her husband cannot afford to pay more than \$450 a month in rent. The only way she and her husband can afford a home that fits their needs is to rent a mobile home. *Id.*

31. For nearly a decade, the Kilpatricks have wanted to move to Newark to be near their close friends to support each other as they age. *Id.*

32. Although Ms. Kilpatrick has been looking actively for many years, she has not been able to find affordable housing in Newark. Every time she becomes aware of a vacancy, the competition is so great that someone else gets the home.

33. If someone like Mrs. and Mr. Marshall or Ms. Altom were able to place an affordable mobile home on their property, Ms. Kilpatrick would rent it and move to Newark immediately.

34. Ms. Kilpatrick and her husband are ready and willing to move to Newark at the first opportunity — but Newark's arbitrary rule that a mobile home be worth at least \$25,000 or \$35,000 has lead to a decreased stock of available mobile homes, preventing them from doing so. *Id.*

Plaintiffs Veneda and Robert Marshall

35. Veneda and Robert Marshall are a retired married couple who live approximately four miles outside the Newark city limits. Their sole income is from social security and whatever supplement they can make is by renting out mobile homes on their property located within the Newark city limits. Ex. 3, Decl. of Veneda Marshall; Ex. 4, Decl. of Robert Marshall.

36. Mr. and Mrs. Marshall are committed to providing affordable housing to Independence County residents who wish to live in Newark. *Id.* Because of their limited resources and a desire to keep rents low, they purchase used mobile homes and then fix them up to provide safe, low-cost housing to those who need it. *Id.* One of their units has been approved by HUD as section 8 housing.

37. None of the rental properties that the Marshalls own has ever been cited for health or safety violations.

38. When one of their units becomes vacant and they advertise the availability of a reasonably priced rental home in Newark, they routinely receive dozens of inquiries. *Id.*

39. When the Marshalls wanted to put a mobile home on their property at 225 11th Street in Newark, Defendant Joanne Langston required that they submit proof in writing that it was worth more than \$25,000 before approving the move. Ms. Langston did not inquire about the condition of the mobile home, just its value.

40. Mr. and Mrs. Marshall currently have a vacant lot on Thomas Creek Drive. They would like to put a double-wide mobile home that they own on the property but are unable to do so because it will not appraise at \$35,000. *Id.*

41. When Veneda Marshall put an ad on a local website to see whether anyone would be interested in living on Thomas Creek Drive if they could set up a home, she received 10 responses within a few hours and dozens overall.

42. Because of the arbitrary Exclusion Ordinance, Mr. and Mrs. Marshall are prevented from supplementing their extremely limited income simply because they cannot afford to place an expensive home on their property. They are also prevented from lawfully using their property in the way they desire — creating affordable housing opportunities for low-income individuals who wish to be part of the Newark community.

Plaintiff Becky Altom

43. Ms. Altom was widowed in 1993, leaving her with small children to raise. Ex. 5. She worked from 2008 to 2012 at Network of Community Options, providing care to adults with disabilities. In 2011, her wrist was injured when she was transferring a patient to a wheelchair. In spite of two surgeries, Ms. Altom has permanent disabilities — the accident resulted in permanent nerve damage and loss of small motor control. Ms. Altom can no longer keep notes on patients or provide care such as giving medicine, and use of her left hand causes her pain.

44. Ms. Altom decided to use the insurance money she received at her husband's death to purchase property in Newark and place mobile homes on her lot to rent. She estimated that she could make ends meet if she were able to collect the rental money.

45. Ms. Altom successfully purchased a house and four mobile homes and moved the mobile homes to Newark on a four-acre lot. She set up the four mobile homes and rented out all five residences for \$450 per month. The income, however, was not enough to support her and her family.

46. In 2015, Ms. Altom intended to buy a fifth, double-wide, mobile home for \$20,000 that appraised at \$25,000. The larger structure would have allowed her to charge more rent and thus have sufficient income.

47. Just before the transaction was completed, Ms. Altom contacted the City to see if she needed to register her property as a mobile home park. Defendant Langston told her that because the home was a double-wide, it had to appraise for \$35,000 and therefore she would not be able to place it on her lot in the city limits as planned.

48. Defendant Langston never inspected the home or gave Ms. Altom an opportunity to prove that it met relevant health and safety codes. Defendant Langston simply refused authorization based on the estimated value of the mobile home being too low.

49. Ms. Altom was forced to cancel the sale. Since then she has had to work part-time providing in-home elder care for \$120 per week, although it causes her pain due to her disability. If the Exclusion Ordinance were not in place, this would not be necessary.

50. Ms. Altom has never been cited for a health or safety violation related to one of her properties.

51. Ms. Altom has posted three different ads on Facebook Marketplace for the Newark area since January 1, 2018. The first ad had 1,988 views and conversations with 35 different people. The second ad had over 3,000 views and 59 conversations. The third ad had 1,734 views with 40 conversations. *See* Ex. 6.

52. Ms. Altom's experience shows there is a need for affordable housing in Newark and that the city has potential for growth that is prevented by the Exclusion Ordinance.

Plaintiff Jon Jarvis

53. Mr. Jarvis currently lives in Batesville, Arkansas. In 2013-14, Mr. Jarvis removed a previously-existing mobile home from his property on Thomas Creek Road in Newark and paid \$1,500 to have a newly-renovated home delivered. Ex. 7, Jarvis Decl.

54. The new mobile home did not appraise at \$25,000 and thus did not comply with the Exclusion Ordinance then in effect. When Mr. Jarvis went to establish a water connection for the home, he was told that he would have to remove it from the city because it was not worth enough. Mr. Jarvis stated that he intended to challenge that decision. *Id.*

55. Shortly afterwards, Defendant Jim Cunningham called Mr. Jarvis and ordered him to remove the home from his property because it did not appraise at \$25,000. *Id.* Mr. Cunningham further said that he would begin fining Mr. Jarvis on a daily basis if he did not comply. *Id.*

56. No city official ever visited Mr. Jarvis' mobile home or inquired about its habitability, safety, or health compliance.

57. Mr. Jarvis was threatened with fines and forced from the city based on the value of his mobile home alone.

58. Because Mr. Jarvis could not afford to hire a lawyer to challenge the Ordinance while simultaneously accruing daily fines, he had no choice but to remove the mobile home, which cost him \$1,500 in addition to the \$1,500 he had paid to place the home on the lot. Mr. Jarvis was forced to sell his property on Thomas Creek Road because he could not afford to put housing on it. *Id.*

59. The City never raised any health or safety concerns related to the home, hookups or utilities Mr. Jarvis placed on his property — Defendants simply denied Mr. Jarvis the right for his home to exist in Newark based on its estimated value.

B. Defendants' Wealth-Based Exclusion Scheme Violates Substantive Due Process Because It Infringes Upon Plaintiffs' Fundamental Rights

60. Defendants' policy and practice of forbidding any home appraised below Defendants' arbitrary value requirements from moving into the City violates Plaintiffs' fundamental rights to (i) travel and relocate free from discrimination, and (ii) freely use their property in a lawful and unimpeded way.

i. Defendants Violate Renters and Home Owners' Rights to Travel and Relocate without Discrimination Based on Wealth-Status

61. Freely choosing where to live and establish a home is connected to a long line of established fundamental rights, all of which underscore a basic liberty interest in pursuit of life and liberty: including, among other rights, the right to travel and relocate, the right to marriage, the right to procreation, the right to raise a family, and the right to freedom of association.

62. The right to be treated equally with other local residents — regardless of wealth status — is a fundamental right, the infringement of which requires strict scrutiny. *See Shapiro v. Thompson*, 394 U.S. 618, 631 (1969), *overruled in part on state immunity grounds by Edelman v. Jordan*, 415 U.S. 651 (1974) (“More fundamentally, a State may no more try to fence out those indigents who seek higher welfare benefits than it may try to fence out indigents generally.”).

63. Newark's Ordinance effectively bans lower-income individuals such as Ms. Kilpatrick from relocating to Newark simply because they are too poor to afford rent amounts that other Newark residents can afford. Defendants violate the Constitution by setting arbitrary home appraisal values to keep “undesirable,” or non-wealthy, individuals out of the city.

64. Newark's Exclusion Ordinance is, on its face, unconcerned with health, safety, or welfare — it only takes into account the value of a home, reflecting the City's animus towards

non-wealthy individuals. The City of Newark may not discriminate against potential and current residents simply because City officials wish to drive out the impoverished.

ii. Defendants Prevent Plaintiffs from Exercising Their Fundamental Right to Unimpeded Lawful Use of Their Property

65. It is the undoubted right and unalienable privilege of an individual not to be divested or interrupted in the innocent use of property; the right to use one's property as one sees fit, as long as others are not harmed, is deeply rooted in Anglo-American law. *See Camfield v. United States*, 167 U.S. 518, 522 (1897) (stating that a person may "erect what he pleases upon his own land" as long as he does not create a nuisance).

66. This right is especially important where, as here, individuals seek to lawfully use their land for the better of the community — by providing safe, clean and affordable rental housing to those who wish to be part of the Newark community but cannot afford high rent amounts.

67. The appraised value of a home — which can be affected by factors that do not bear on health and safety, such as adding high-tech kitchen appliances — has no relationship whatsoever to whether that home constitutes a public nuisance. Indeed, living in a home valued at less than \$35,000 can be entirely consistent with exercising the right to lawfully use one's property without constituting a nuisance.

68. Arbitrarily restricting placement of a manufactured home based only on its appraisal worth — rather than its condition, habitability, and compliance with non-discriminatory restrictions — violates the fundamental right to enjoyment of one's property free from government interference.

69. The Exclusion Ordinance therefore violates the rights of Plaintiffs Marshall, Jarvis, and Altom as it prohibits them from using their land as they desire and does nothing to protect the health and safety of the community.

C. Newark's Mobile Home Ordinance Unconstitutionally Punishes Individuals Based on the Status of Being Impoverished

70. The Exclusion Ordinance punishes people whose only offense is being unable to buy or rent a mobile home worth more than \$25,000.

71. It is unconstitutional to criminalize or punish a status, such as poverty.

72. Plaintiffs Altom and Kilpatrick have limited incomes that only cover basic human needs like food and rent; because they cannot afford to buy a more expensive manufactured home — or afford the rent to live in one — Newark has effectively banished them from the city limits, deeming them to be undesirable members of the community simply due to their poverty.

73. Defendants may not exclude or punish any person for the mere status of being poor. By exiling individuals simply because their homes are considered to be too cheap, Defendants unconstitutionally discriminate based on wealth-status. *See Berry v. City of Little Rock*, 904 F. Supp. 940, 948 (E.D. Ark. 1995), *aff'd*, 94 F.3d 648 (8th Cir. 1996) (“The states are prohibited by the Equal Protection Clause from discriminating between ‘rich’ and ‘poor’ as such in the formation and application of their laws”).

D. Defendants' Exclusion Scheme Constitutes Invidious Discrimination in Violation of the Equal Protection Clause

74. Defendants' exclusion scheme discriminates between similarly-situated individuals — renters and homeowners that live or wish to live in Newark — based simply on the estimated value of the home they are able to afford.

75. Every individual has a right to physically exist somewhere — but in the eyes of Defendants, if an individual is too impoverished to afford a home appraised above a certain arbitrary value, they don't have the right to exist in Newark.

76. There is no legitimate government interest that is rationally served by the City's arbitrary requirement — which does not implicate health or safety concerns — that every mobile home in Newark be worth at least \$25,000 or \$35,000 depending on its size.

77. Indeed, Newark's Exclusion Ordinance gives no justification whatsoever for discrimination based on home value. *See* Ex. 1.

78. Because the Exclusion Ordinance is not guided by any health or public safety rationale, the motivation for the ordinance can only be described as government-sanctioned animus against the impoverished, and a desire to exclude based on wealth-status.

79. Defendants' desire to keep the poor out of their city is evident from the City's historical policies and practices against lower-value homeowners and renters: over the years, Newark has continuously raised the mobile home minimum value requirement in an effort to deny residency to more and more lower-income individuals.

80. In 2010, the Newark City Council passed the first Exclusion Ordinance mandating that “[n]o trailer shall be placed in the City of Newark unless it has a value established by a national appraisal guide of not less than [sic] \$15,000 (fifteen thousand dollars).” Ex. 8, Ord. 2010-08, § 3(F). When that arbitrary value proved not high enough to keep out all undesired residents, the City Council raised the minimum home value requirement in 2011 to \$25,000 for all “trailers,” making it even more difficult for lower-income individuals to qualify for a place in the community. Ex. 9, Ord. 2011-07, § 3(F).

81. Ordinance 2011-07 also ambiguously allowed the Council to refuse a “trailer park” permit “for other reasons” besides lack of adequate drainage, utilities, or because the area was not suitable — giving the City Council unlimited discretion to discriminate against mobile homes for any reason. *Id.* at § 4(D).

82. Other official actions taken by the City Council belie the City’s animus toward impoverished individuals, and specifically individuals who live in mobile homes. For instance, recent Ordinance 2018-04 requires that all repair work on mobile homes be done by a “state-licensed master” plumber or electrician — a requirement that does not extend to other home owners. Ex. 10, Ord. 2018-04 at § 8(f)-(g). This unnecessarily adds a financial burden to those who are already struggling to make ends meet, while there are numerous qualified people who can perform maintenance work but do not have the required “state master” credential.

83. Defendants’ Exclusion Ordinance is not designed to further health, safety, or general welfare — it is nothing more than a discriminatory attempt to rid Newark of lower-income community members in violation of equal protection.

i. The Discriminatory Minimum Value Requirement Is Not Rationally Related to “Encouraging Orderly Growth”

84. In February 2015, the City of Newark adopted a Comprehensive Plan “for directing orderly growth and development within its city limits and planning area.” Ex. 11 at p. 2.

85. According to Newark’s own planning document, the number of mobile homes in the city increased from 17.6% in 2000 to 24.5% in 2010, whereas the number of single-family homes decreased from 71.4% to 63.6%. Ex. 11 at p. 11.

86. It is illogical to encourage Newark’s “growth” by forbidding those who want to move into the city from doing so. If growth is to be encouraged, it must first be allowed.

87. Defendant's ban cannot encourage growth, because it excludes rent-paying individuals from living in the City.

88. Defendants' ban cannot encourage growth because it prevents individuals from placing or occupying mobile homes on Newark properties, instead leaving those properties vacant and unused.

89. Defendants' wealth-based scheme is not rationally related to encouraging growth. Indeed, by preventing certain individuals from moving into the city, Defendants are *discouraging* growth. It appears that "encourag[ing] orderly growth" is merely a thinly-veiled euphemism for exiling people who are poor.

ii. Imposing Home-Value Requirements that Discriminate Against the Poor is Not Rationally Related to Legitimate Government Interests such as Health and Safety

90. While Newark's City Council can pass and enforce regulations that protect, among other things, public health, safety, and community welfare, Ark. Code Ann. §14-56-403, the City's discriminatory minimum value requirement for a mobile home does not further these interests in any way.

91. The appraisal value of a home is not a logical or rational proxy for health, safety, or general community welfare.

92. The minimum value requirement does not prevent undesirable health, safety, or welfare conditions because it does not deal with these issues whatsoever. *See* Ord. 2015-01.

93. The minimum value requirement does not safeguard health. Any number of expensive alterations to a mobile home could distort its appraisal value without making it a healthier place to live. For instance, gold-plated plumbing fixtures in the bathroom and kitchen could increase the value of a mobile home to over \$35,000 without alleviating health concerns or making the home a healthier environment in general.

94. The minimum value requirement does not protect public safety, because monetary value is not an adequate proxy for safety. Any number of expensive alterations to a mobile home could increase its monetary value without making it a safer place to live — for instance, marble countertops would increase the value of a mobile home without making it safer for the inhabitants or the community.

95. The minimum value requirement does not protect the general welfare, because monetary value is not an adequate proxy for general welfare. For instance, a surround-sound stereo system would increase the value of a mobile home without increasing the welfare of the community.

96. Requiring that a double-wide mobile home be worth at least \$35,000 and a single-wide be worth \$25,000 serves no legitimate purpose other than to exclude people from Newark based on their ability to afford a home worth a certain arbitrary amount.

E. The Daily Fines for Violating Newark’s Mobile Home Exclusion Ordinance Are Unconstitutionally Excessive

97. Defendants punish violations of the Exclusion Ordinance through a fine of not less than 50 dollars and up to 500 dollars *each day* that a “noncompliant” home exists within the City. *See* Ord. 2015-01 § 5 (“A violation of this ordinance shall be *punishable* by a fine . . .”) (emphasis added).

98. Any “payment to a sovereign as punishment for some offense . . . is subject to the limitations of the Eighth Amendment’s Excessive Fines Clause.” *Austin v. United States*, 509 U.S. 602, 622 (1993) (internal citation omitted).

99. There is no demonstrable harm to others caused by an individual living in a home that is appraised at a value less than \$25,000 or \$35,000. Plaintiffs do not cause harm or nuisance by attempting to live in homes below the arbitrary value amounts set by Defendants;

their only offense is being too poor to afford or rent a mobile home appraised at over \$25,000 or \$35,000. Thus, punishing the non-culpable “offense” of being too poor to live in an expensive home with a fine of up to \$500 *per day* violates the rule of proportionality in fines under the Eighth Amendment.

100. The Exclusion Ordinance sets a huge range of \$50 to \$500 for the daily fine — but it provides no guidance on how fines in individual cases will be determined within that range. *See* Ord. 2015-01 at § 5. This leaves impoverished tenants and homeowners extremely vulnerable to abuse of discretion by enforcers, who are not accountable to any oversight or appeals process.

101. The City’s punishment scheme makes it nearly impossible for individuals to challenge the subjective determination that their home is not worth enough to exist in the City, because those individuals will face mounting daily fines during any period of challenge or dispute.

102. For example, Plaintiff Jon Jarvis planned to hire a lawyer to challenge the order to remove the mobile home from his property, but could not afford the mounting fines that would accrue each day the case was pending. Ex. 7, Jarvis Decl. at ¶ 8. Instead, he was left with no choice but to leave the city.

103. The Exclusion Ordinance does not set a maximum for the total amount in fines that can be imposed upon individuals whose homes are not in compliance the Ordinance. Every day is a separate offense subject to a new fine. The only clear way for people to stop the fines is to do what Mr. Jarvis did: leave the city.

104. The people targeted by the Exclusion Ordinance — those desiring to live in mobile homes appraised at less than \$35,000 or \$25,000 — are necessarily some of Independence County’s poorest residents.

105. The Exclusion Ordinance’s punitive fee structure has a sole purpose: to ensure that impoverished individuals with noncompliant homes are left with no choice but to be banished from the city.

106. Any fine for the “offense” of being poor is impermissible. Therefore, the imposition of a fine in any amount for the “offense” of not living in an expensive home is unconstitutionally disproportionate and excessive under the Eighth Amendment.

F. Defendants’ Wealth-Based Exclusion Scheme Violates Procedural Due Process

107. Defendants’ wealth-based exclusion policy violates procedural due process because it (i) deprives renters and homeowners of their protected property interests in land use and tenancy without due process of law, and (ii) inflicts daily monetary punishments against those individuals whose homes are “noncompliant” without due process of law.

i. The Exclusion Ordinance Deprives Renters and Homeowners of Their Protected Property Interests in Land Use and Tenancy Without Due Process

108. Plaintiffs have a vested property interest in the free use and enjoyment of their land and vested property interests in their leaseholds.

109. Defendants automatically and preemptively ban homes that pose no demonstrable public nuisance, infringing (and in some cases completely denying) Plaintiffs’ property rights.

110. Due process of law — including a meaningful opportunity to be heard and a fair and impartial process appropriate to the nature of the case — is required before the City can

obstruct property use, force a resident to leave the city limits, or prevent individuals from taking up residence because their home is of insufficient value.

111. The Exclusion Ordinance is automatic; it makes no provision for fair and impartial due process of law or for fair and impartial evaluation of mobile homes appraised at less than \$25,000 or \$35,000.

112. The Exclusion Ordinance has no specified notice requirement.

113. The Exclusion Ordinance offers no opportunity to be heard on the matter of home compliance; to be heard on the matter of an individual's right to use their land as they wish; or to be heard on the matter of an individual's right to remain in the city.

114. The Exclusion Ordinance includes no alternatives to assessing the value of a home other than forcing an individual to pay a certain amount for the home (proof by bill of sale) or forcing the individual to pay an appraiser (proof by "national appraisal guide").

115. The Exclusion Ordinance includes no notice, meaningful opportunity to be heard, or fair and impartial process for an individual to prove that their mobile home meets all relevant health and safety standards despite being appraised below \$25,000 or \$35,000.

116. The Exclusion Ordinance includes no right to appeal.

117. The procedure (or lack thereof) provided in Defendants' Exclusion Ordinance is patently inadequate.

118. Defendants presumptively, automatically, and indefinitely deny Plaintiffs' rights to freely use and enjoy their land without adequate due process of law.

ii. Defendants Inflict Daily Monetary Punishment on Impoverished Individuals Without Due Process of Law

119. When an individual's home is adjudged to have an appraisal value of less than \$25,000 or \$35,000, Defendants automatically impose daily fines of up to \$500 without notice, an opportunity to be heard, or a fair and impartial process appropriate to the nature of the case.

120. Where a statute employs a sanction as a punishment, it must afford procedural safeguards.

121. Individuals living in homes that do not meet the minimum value requirement face one of two consequences: they can pay an automatically-imposed fine of \$50 to \$500 for every day that they are in violation — without a meaningful opportunity to be heard — or they can move the home out of the city. Both of these consequences involve an affirmative disability and restraint.

122. Defendants automatically levy daily fees against individuals for a virtually non-curable offense: if an individual's home is not valuable enough to comply with the ordinance, there is little that person can do to quickly increase the value of their home while simultaneously under the imposition of daily fines of up to \$500.

123. The Exclusion ordinance does not provide for notice, procedures, or an opportunity to be heard at a meaningful time before fines are imposed.

124. The Exclusion Ordinance does not provide for notice, procedures, or an opportunity to be heard when Defendants determine the amount of the mandated fine, which can range widely from \$50 per day at its lowest and \$500 per day at its highest.

125. The Exclusion Ordinance does not require a hearing before fines are imposed.

126. The Exclusion Ordinance does not provide for appeal of an enforcer's decision to fine a resident.

127. The Exclusion Ordinance does not provide an opportunity to appeal the decision of what daily fine amount will be imposed.

128. The procedure (or lack thereof) provided in Defendants' Exclusion Ordinance is patently inadequate.

129. Fines — especially in the excessive range allowed by the Ordinance — are also historically regarded as punishment.

130. The fine-based enforcement scheme of the Ordinance is clearly meant to deter because it imposes a new fine for every day of noncompliance. This makes it virtually impossible for anyone to remain noncompliant for longer than a short period.

131. For example, Defendant Cunningham used the threat of enforcing the Ordinance's fines provision against the Plaintiff Jon Jarvis, forcing him to vacate the City immediately.

132. The severity of the fines serves both a retributive and deterrent purpose. The fines are so large that Newark property owners are prevented from providing affordable housing, making it impossible for low income residents to move into the city.

133. Defendants' policy and practice of automatically levying fines — subject to unmitigated discretion — by employing a monetary sanctions without providing meaningful, fair and impartial process violates the Due Process Clauses of the United States Constitution.

Claims for Relief

Count One: Defendants Violate Plaintiffs' Substantive Due Process Rights By Preventing Them From Living in Newark Because They Cannot Afford a Mobile Home Worth An Arbitrary Monetary Value

134. Plaintiffs incorporate by reference each and all of the previous allegations in this complaint.

135. Plaintiffs have the fundamental right to travel and relocate free from discrimination based on wealth status.

136. Plaintiffs have a fundamental right to freely associate with whom they choose.

137. Plaintiffs have a fundamental right to be free from government interference into the lawful and unimpeded use of their property.

138. Defendants enforce an Ordinance against Plaintiffs that prevents them from either offering (or accepting) mobile housing for rent based on animus against wealth status.

139. Defendants' Exclusion Ordinance acts as a complete bar to Plaintiffs' exercise of these fundamental rights, and Defendants have arbitrarily deprived Plaintiffs of their fundamental rights to freely travel, freely relocate, and freely use their land in a lawful manner.

Count Two: Defendant City of Newark's Ordinance Invidiously Discriminates Against People with Lower Incomes in Violation of the Equal Protection Clause

140. Plaintiffs incorporate by reference each and all of the previous allegations in this complaint.

141. The Equal Protection Clause of the Fourteenth Amendment prohibits Defendants from discriminating against similarly situated individuals without a rational connection to a legitimate government interest.

142. Defendants have a policy and practice of mandating that mobile homes be worth at least \$25,000 or \$35,000 to exist within the city limits. Defendants prohibit renters, landowners, and homeowners with insufficient wealth from living in Newark, while permitting renters, landowners and homeowners with sufficient wealth to live in Newark.

143. Defendants' wealth-based exclusion policy is effectuated without a rational connection to a legitimate government objective in violation of the Equal Protection Clause.

Count Three: Defendant City of Newark's Ordinance Violates the Eighth Amendment's Prohibition Against Excessive Fines on Its Face.

144. Plaintiffs incorporate by reference each and all of the previous allegations in this complaint.

145. Newark's ordinance provides for fines of up to \$500 per day simply for living in a mobile home with an insufficient appraised value, or simply for not being able to afford to own or rent a mobile home of an inflated value.

146. Defendants violate the Eighth Amendment's prohibition on imposing excessive fines that are disproportionate to the alleged misconduct.

Count Four: Defendants Violate Plaintiffs' Procedural Due Process Rights Because They Exclude Individuals from the City and Impose Fines on Individuals without Any Procedural Safeguards

113. Plaintiffs incorporate by reference each and all of the previous allegations in this complaint.

114. Defendants' policy and practice violates procedural due process by depriving individuals of the use of their property and/or residency in Newark with no process of law whatsoever, including lack of formal notice, a hearing, a meaningful opportunity to be heard and present a defense, a fair and impartial process appropriate to the nature of the case, or an appeals process.

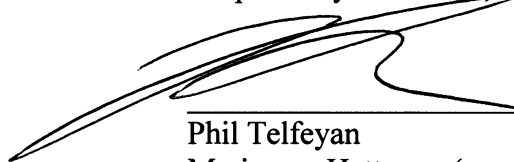
115. Defendants' policy and practice violates procedural due process because it punishes noncompliance by imposing fines with no process of law whatsoever, including lack of formal notice, a hearing, a meaningful opportunity to be heard and present a defense, a fair and impartial process appropriate to the nature of the case, or an appeals process.

Request for Relief

WHEREFORE, Plaintiffs request that this Court issue the following relief:

- a. A declaratory judgment that the Defendants violate Plaintiffs' constitutional rights by refusing to allow any mobile home in the City of Newark that is worth less than \$25,000 or \$35,000, depending on size.
- b. An order declaring that Newark's Ordinance 2015-01 and its relevant predecessors are facially unconstitutional because they enact a wealth-based exclusion scheme.
- c. An order and judgment preliminarily and permanently enjoining Defendants from enforcing their unconstitutional wealth-based exclusion scheme, including all efforts to prevent the placement and rental of affordable housing within Newark.
- d. An order and judgment preliminarily and permanently enjoining Defendants from imposing fines upon individuals because the mobile home he or she owns or rents is valued at less than \$25,000 or \$35,000 depending on size.
- e. General compensatory damages for Plaintiffs' losses, including but not limited to loss of rental income, moving costs, punitive fees paid pursuant to Ordinance 2015-01, costs associated with attempted compliance with Ordinance 2015-01, costs associated with involuntary continued residence outside of Newark due to Ordinance 2015-01, and any and all other costs and damages deemed appropriate by this Court.
- f. An order and judgment granting reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, and any other relief this Court deems proper.

Respectfully submitted,



Phil Telfeyan
Marissa Hatton (*pro hac vice* application
forthcoming)
Equal Justice Under Law
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Washington, D.C. 20004
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Attorneys for Plaintiffs Beverly Kilpatrick, Veneda Marshall, Robert Marshall, Becky Altom, and Jon Jarvis

EXHIBIT 1

BEFORE THE CITY COUNCIL OF NEWARK, ARKANSAS

An Ordinance Repealing Ordinance 2010-08 & 2011-07, And Regulating
Mobile Home Parks, Trailer, Mobile Homes and Manufactured
Housing and Other Purposes

Ordinance 2015-01

Be it ordained by the City Council of Newark, Arkansas as follows:

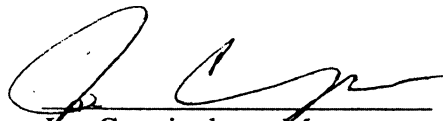
1. **Regulation Established:** From and after the passage of this ordinance trailer, mobile homes, manufactured housing and mobile home parks shall be regulated and governed by this ordinance.
2. **Trailer-Mobile Home and Manufactured Housing Defined:**
 - A. A mobile home is a unit designed for use as human habitation moved to its site on wheels.
 - B. The self-propelled motor homes and camper trailers fall under item 3-G&H.
3. **Placement of Mobile Homes:** No mobile home shall be placed in the City of Newark unless it is within the following categories:
 - A. Placed in a mobile park; or
 - B. Placed on dedicated lot in the City of Newark on which no other dwelling is located and the lot is at least 7,500 square feet and the lot fronts on a street; or
 - C. A mobile home within the City of Newark shall be underpinned or skirted before water is turned on.
 - D. No mobile home shall be placed within 20 (twenty) feet of each property line.
 - E. No mobile home shall be placed in the City of Newark unless it has a value established by a national appraisal guide of not less than \$25,000.00 (twenty five thousand dollars) for a single wide home and \$35,000.00 (thirty five thousand dollars) for a double wide.
 - F. Has its own water and sewer connection/deposit.
 - G. Is motor home or camping type unit which is parked alongside of a house and no one uses it for habitation while so parked.
 - H. Exception for camper trailer habitation is for family visits for a total not to exceed two weeks per year. This exception will require a permit obtained from the city hall.
4. **Mobile Home Parks:** A mobile home park will only be permitted in the City of Newark if it has the following minimum standards:
 - A. **Space Size:** Each mobile home shall have a minimum lot size of 1,500 square feet.
 - B. **Individual Sewer and Water:** Each mobile home in a mobile home park shall have a separate city water and sewer hook-up.
 - C. **Permit Required:** No mobile home park shall be allowed unless a permit has been secured. The permit fee shall be \$120.00 per year. The permit will be on a form

designed by the City Council and will contain the name, address and agent for service of process (which must be a local person). The fee will prorate if issued during a part of a year.

- D. **Issuance of Permit:** The permit may be issued by the City Council after a review of the proposed mobile home park. The Council may refuse to issue a mobile home park permit if there is not adequate drainage, access or utility service, or for other reasons including but not limited to suitability of the proposed area as a mobile home park.
 - E. **Length of Time:** That a permit shall be for twelve months commencing January 1 of each year and a new permit must be secured each year.
 - F. **Placement of Mobile Homes:** No mobile home shall be parked within 20 (twenty) feet of the property line.
 - G. **Yard Acreage:** A mobile home space shall have yard setbacks of not less than (8) eight feet on all sides.
5. **Enforcement:** A violation of this ordinance shall be punishable by a fine of not less than \$50.00 or more than \$500.00 and each day a violation exists shall constitute a separate offense.
6. All Ordinances and parts of Ordinance in conflict herewith are hereby repealed.
7. All provisions to this ordinance need to be met before water or sewer service can be connected.
8. It is hereby found by the City Council of the City of Newark, Arkansas, that there is an immediate need to go forwards with the passage of this Ordinance in order to promote and protect the health, safety, and welfare of the citizens of the City. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of public peace, health, and safety shall be in full force and effect immediately from and after its passage.

PASSED and APPROVED this 13th day of January, 2015.

City of Newark


Jim Cunningham, Mayor

Attest:

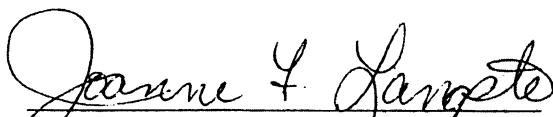

Joanne F. Langston, Recorder/Treasurer



EXHIBIT 2

DECLARATION OF BEVERLY KILPATRICK

I, Beverly Kilpatrick, state and declare as follows:

1. I, Beverly Kilpatrick, am a 63-year-old resident of Batesville, Arkansas.
2. I currently live with my husband, Martin Kilpatrick, age 63, in a 1 bedroom, 1 bath apartment mobile home which is too small for our needs but is all that we can afford.
3. My husband and I are on a fixed income from social security, as we are retired.
4. My husband last worked with Royal Oak ~~Truck Haul~~ ^{CHARCOAL} in Huntsville. His last hourly wage was approximately \$12.
5. I used to work retail but for health reasons have not been employed since 2013.
6. We have desired to move to Newark for nearly a decade to be near close friends who live there.
7. We currently pay \$450 per month in rent for the apartment. If we could move into a mobile home in Newark, we could live in a much larger space — as much as three bedrooms and two baths.
8. We would be upstanding citizens of Newark, although we have a limited income. We have never been in trouble with the law, pay our bills, and have strong family values.
9. I believe that the current City government is hostile to manufactured housing without a valid reason.
10. If Ordinance 2015-01 were repealed, my husband and I would have a much better chance of finding a mobile home in Newark that we could afford. We would move at the first opportunity.

I declare under penalty of perjury that the foregoing is true and correct to the best of my recollection.

Beverly Kilpatrick

Beverly Kilpatrick

May 23, 2018

EXHIBIT 3

DECLARATION OF VENEDA MARSHALL

I, Veneda Marshall, state and declare as follows:

1. I, Veneda Marshall, am a 60-year-old resident of Independence County, Arkansas. I live approximately four miles outside the Newark city line. I have lived here for 23 years with my husband and family.
2. My husband and I own four lots in Newark, three of which have mobile homes on them.
3. The first is located at 220 Thomas Creek Drive, Newark. It is a 16x80 foot singlewide with three bedrooms and two bathrooms that we purchased with the land on September 1, 2013.
4. The second is located at 1020 Dove Lane, Newark. It is a 16x80 foot singlewide (1995 model) with three bedrooms and two bathrooms. My husband and I purchased the land and structure on in 2012 for \$17,000.
5. The third is a 16x80 foot singlewide with three bedrooms and two bathrooms at 225 W 11th Street Newark that my husband and I purchased on September 20, 2012 for \$19,750. Defendant Langston demanded proof that the home was worth \$25,000. In fact, it appraised at \$26,000. She never asked about the condition of the structure just its value.
6. Finally, we purchased a lot and 1990 model 16x80 foot singlewide with three bedrooms and two bathrooms, located at 402 Vine Street in August 2015 for \$8700.
7. The rent for all four properties is \$450 per month. They are all currently occupied and there is great demand everyone we advertise that one of the units is available.
8. On April 8, 2014, my husband and I purchased a lot on Thomas Creek Road for \$3,784.36 from Jonathan Jarvis, intending to place a mobile home there. I placed an on-line advertisement to gauge interest in a rental property at that location and received many dozen responses.

9. We have not placed a mobile home on our lot on Thomas Creek because it would be subject to Ordinance 2015-01 lot requiring at \$25,000 minimum value.
10. Given our years of experience buying, installing, and renting mobile homes, we believe that it is possible to buy a very nice, structurally sound, mobile home for far less than \$25,000.
11. We do not wish to overpay — and pass the inflated price onto our tenants in higher rent — to comply with an arbitrary number imposed on us by the City Council.
12. We do not have the financial resources to pay more for a mobile home than is necessary.
13. Our goal is to provide safe, clean, and comfortable affordable housing for families in Newark, which we cannot do if the City forces us to spend \$25,000 on a mobile home: either we will have to raise rents beyond what people can pay or absorb the financial loss ourselves.
14. I was the office manager of a local grocery store in 2013, which gave me first-hand experience with poverty in Newark and the importance of providing affordable housing so people can make ends meet.
15. None of our properties has ever been cited for health or safety code violations. Our tenants are all happy with the condition of their living quarters and with our attentiveness as landlords.
16. I believe that the current City government is hostile to manufactured housing without a valid reason.
17. By reducing the number of areas zoned for manufactured housing and increasing the minimum value of the homes that are allowed, it is almost impossible to either install or replace a mobile home in Newark.
18. Newark's Mayor — Defendant Jim Cunningham — told my husband and me that we should move our mobile homes out of the City because they were “stunting the growth of the city.”

19. I do not understand how wanting to add to Newark's housing stock could stunt its growth.

20. If Ordinance 2015-01 were repealed, my husband and I would place a mobile home on our Thomas Creek property and rent it out.

I declare under penalty of perjury that the foregoing is true and correct to the best of my recollection.

A handwritten signature in cursive script, reading "Veneda Marshall", is written over a horizontal line.

Veneda Marshall
May 8, 2018

EXHIBIT 4

DECLARATION OF ROBERT MARSHALL

I, Robert Marshall, state and declare as follows:

1. I, Robert Marshall, am a 78-year-old resident of Independence County, Arkansas. I live approximately four miles outside the Newark city line. I have lived in this area for most of my life.
2. I live on a street — Marshall Rd. — that was named after my family.
3. My wife and I own five lots in Newark, four of which have mobile homes on them.
4. The first is located at 220 Thomas Creek Drive, Newark. It is a 16x80 foot singlewide with three bedrooms and two bathrooms. We purchased the land and structure on September 1, 2013 for \$25,500.
5. The second is located at 1020 Dove Lane, Newark. It is a 16x80 foot singlewide (1995 model) with three bedrooms and two bathrooms. My wife and I purchased the land and structure on in 2012 for \$17,000.
6. The third is located at 225 W 11th Street Newark. It is a 16x80 foot singlewide with three bedrooms and two bathrooms. My wife and I purchased the land and structure on September 20, 2012 for \$19,750, however the trailer appraised at \$26,000.
7. Finally, we purchased a lot and 1990 model 16x80 foot singlewide with three bedrooms and two bathrooms, located at 402 Vine Street in August 2015 for \$8700.
8. The rent for all four properties is \$450 per month. They are all currently occupied and there is great demand every time we advertise that one of the units is available.
9. On April 8, 2014, my wife and I purchased a lot on Thomas Creek Drive for \$3,784.36 from Jonathan Jarvis, intending to place a mobile home there. I placed an on-line advertisement to gauge interest in a rental property at that location and received many dozen responses.

10. Given our years of experience buying, installing, and renting mobile homes, we believe that it is possible to buy a very nice, structurally sound, mobile home for far less than \$25,000 to \$35,000 value as stated in Newark's city ordinance.
11. We do not wish to overpay — and pass the inflated price onto our tenants in higher rent — to comply with an arbitrary number imposed on us by the City Council.
12. Our goal is to provide safe, clean, and comfortable affordable housing for families in Newark, which we cannot do if the City forces us to spend \$25,000 to \$35,000 on a mobile home: either we will have to raise rents beyond what people can pay or absorb the financial loss ourselves.
13. There is a high demand for affordable housing in Newark, Arkansas is the main reason that we invested our savings in our rental property there. We were also concerned about income for our retirement, as we are both retired now.
14. None of our properties has ever been cited for health or safety code violations. Our tenants are all happy with the condition of their living quarters and with our attentiveness as landlords.
15. I believe that the current City government is hostile to manufactured housing without a valid reason.
16. By reducing the number of areas zoned for manufactured housing and increasing the minimum value of the homes that are allowed, it is almost impossible to either install or replace a mobile home in Newark.
17. Newark's Mayor — Defendant Jim Cunningham — told my wife and me that we should move our mobile homes out of the City because they were "stunting the growth of the city."
18. I do not understand how wanting to add to Newark's housing stock could stunt its growth.

19. If Ordinance 2015-01 were repealed, my wife and I would place a mobile home on our Thomas Creek property and rent it out.

I declare under penalty of perjury that the foregoing is true and correct to the best of my recollection.

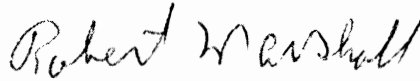

Robert Marshall
May 8, 2018

EXHIBIT 5

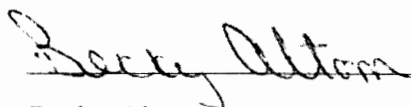
DECLARATION OF BECKY ALTOM

I, Becky Altom, state and declare as follows:

1. I, Becky Altom, am a 58-year-old resident of Independence County, Arkansas. I live approximately four miles outside the Newark city line. I have lived in this area all my life and raised my children here.
2. My first husband died in 1993. My second marriage ended in divorce, so I must support myself.
3. I worked at Network of Community Options, an organization that provides assistance to adults with disabilities. In either 2010 or 2011, I injured my wrist moving a paralyzed patient into a wheelchair. The TFC tendon in my left wrist required two surgeries. Even after the medical care, I have limited motion in my left wrist which affects my small motor skills, making it difficult for me to write or pick up small objects.
4. Because of my disability, I had to leave Network of Community Options and support myself.
5. In 2012 and 2013, I cashed out my life savings to buy a lot in Newark and four mobile homes. The two I purchased in 2012 appraised at over \$15,000. The two I added in 2013 did not appraise at \$25,000, as required by the new Ordinance, but the City did not make the change from \$15,000 to \$25,000 in the copy of the Ordinance it placed in the newspaper to provide notice, so I was able to place them due to the City's error.
6. I charged \$450 per month for each unit, which was not enough money to support myself. I ended up having to take part-time jobs to make ends meet. I currently provide in-home elder care to a couple for \$120 per week.
7. In October 2015, I had the opportunity to purchase a double-wide mobile home for \$20,000 that would fit on my property. As I could have charged more rent, that additional income

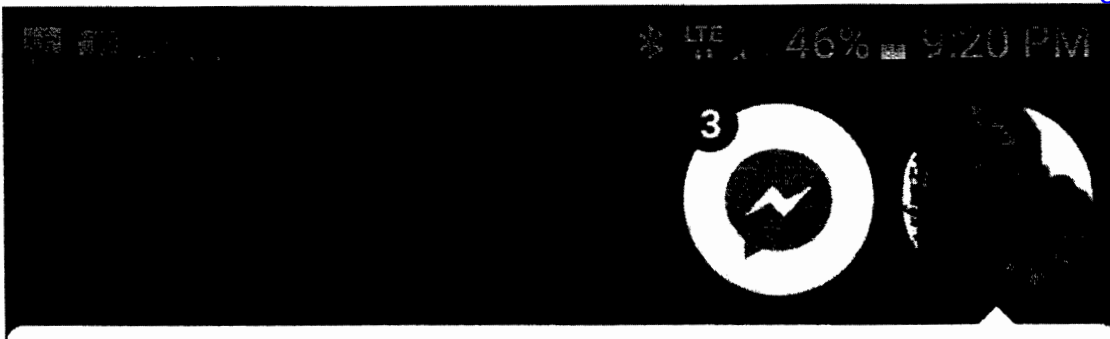
would have allowed me to give up my part-time work and avoid activities, such as picking up small items and writing, which cause me pain.

8. I contacted the City to ask whether adding a fifth mobile home would require me to register as a trailer park. That is when Ms. Langston informed me that I could not move the double wide mobile home onto my land because it was not valued at \$35,000.
 9. As a result of the City's Ordinance I have lost three years' worth of rent and have been forced to work during that time.
 10. I do not have the means to purchase a double-wide home for more than \$35,000 to comply with an arbitrary number imposed on us by the City Council.
 11. I do not have the financial resources to pay more for a mobile home than is necessary.
 12. None of my properties has ever been cited for health or safety code violations. My tenants are all happy with the condition of their living quarters and with my attentiveness as a landlord.
 13. I believe that the current City government is hostile to manufactured housing without a valid reason.
 14. By reducing the number of areas zoned for manufactured housing and increasing the minimum value of the homes that are allowed, it is almost impossible to either install or replace a mobile home in Newark.
- I declare under penalty of perjury that the foregoing is true and correct to the best of my recollection .

A handwritten signature in black ink, appearing to read "Becky Altom", written over a horizontal line.

Becky Altom
May 8, 2018

EXHIBIT 6

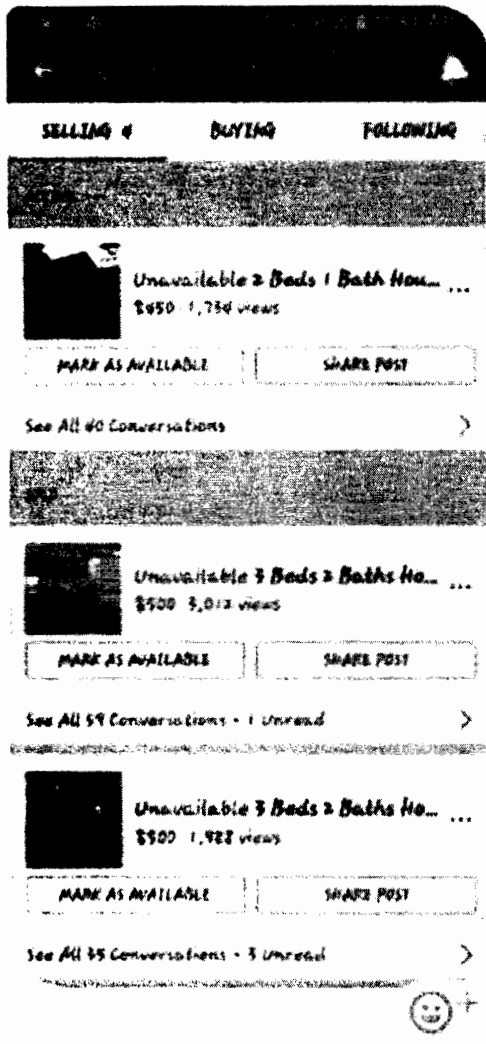


Becky

Active 35 minutes ago



you wanted or could
forward this info to her.



11:58 AM



Aa



EXHIBIT 7

DECLARATION OF JONATHAN JARVIS

I, Jonathan Jarvis, state and declare as follows:

1. I, Jonathan Jarvis, am a 44-year-old resident of Batesville, Arkansas.
2. In approximately 2013 or 2014, I purchased a lot on Thomas Creek Road with a mobile home that was set up on land. I removed the existing structure and brought in another model which I was renovating.
3. I identified a renter who wanted to move in as soon as possible.
4. When I went to the Water Department to set up an account, I was told that I had to remove the mobile home because it would not appraise for \$25,000.
5. The Thomas Creek property met, and as far as I know still meets, Newark's requirements for a trailer site. The mobile home met all health and safety standards required by the City of Newark.
6. I had paid \$1,500 to move the mobile home onto the site and would have had to pay another \$1500 to have it removed, so I protested when the Water Department would not provide water to the site.
7. After I protested, Mayor Jim Cunningham, the defendant in this lawsuit, told me that if I did not remove the mobile home, the City would start fining me at least \$50 per day until it was gone.
8. I had wanted to consult a lawyer to see if the decision could be challenged in court but decided not to because I could not afford the daily fines that would accrue while the case was being litigated.
9. Instead, I removed the mobile home at an additional cost of \$1,500 only because it was not worth enough to be in the city limits.

10. No city official ever raised concerns health or safety concerns about placing a mobile home on the Thomas Creek property; their sole concern was about its value.

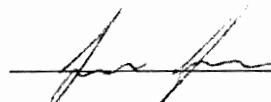
11. I could not afford to increase the value of the mobile home to meet the city's demands, nor did I think it was necessary to do so to create a habitable structure. My prospective renter did not have any concerns about living in the home.

12. I believe the City set that minimum value to prevent people with low income from living in the city.

13. Because I could not place a mobile home on my own land, I was forced to sell the lot. I also lost \$3,000 in moving costs.

14. If the Ordinance were no longer in place, I would move a mobile home into Newark and offer it for rent at a reasonable price.

I declare under penalty of perjury that the foregoing is true and correct to the best of my recollection.



Jonathan Jarvis
May 17, 2018

EXHIBIT 8

BEFORE THE CITY COUNCIL OF NEWARK, ARKANSAS

An Ordinance Amending Ordinance 2007-07, Regulating
Trailer Parks, Trailer, Mobile Homes and Manufactured
Housing and Other Purposes

Ordinance 2010-08

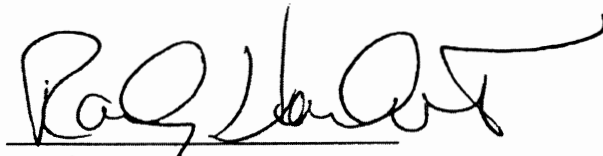
Be it ordained by the City Council of Newark, Arkansas as follows:

1. **Regulation Established:** From and after the passage of this ordinance trailer, mobile homes, manufactured housing and trailer parks shall be regulated and governed by this ordinance.
2. **Trailer-Mobile Home and Manufactured Housing Defined:** The words trailer, mobile home and manufactured home are synonymous. A trailer is a unit designed for use as human habitation moved to its site on wheels. It may or may not be self-propelled. Camping trailers and motor homes are also included.
3. **Placement of Trailers:** No trailer shall be placed in the City of Newark unless it is within one of the following categories:
 - A. Placed in a trailer park; or
 - B. Placed on dedicated lot in the City of Newark on which no other dwelling is located and the lot is a least 7,500 square feet and the lot fronts on a street; or
 - C. Is motor home or camping type unit which is parked along side of a house and no one uses it for habitation while so parked.
 - D. A trailer within the City of Newark shall be underpinned or skirted.
 - E. No trailer shall be placed within 15 (fifteen) feet of each property line.
 - F. No trailer shall be placed in the City of Newark unless it has a value established by a national appraisal guide of not less then \$15,000.00 (fifteen thousand dollars).
4. **Trailer Parks:** A trailer park will only be permitted in the City of Newark if it has the following minimum standards:
 - A. **Space Size:** Each trailer shall have a minimum lot size of 1,500 square feet.
 - B. **Individual Sewer and Water:** Each trailer in a trailer park shall have a separate city water and sewer hook-up.
 - C. **Permit Required:** No trailer park shall be allowed unless a permit has been secured. The permit fee shall be \$120.00 per year. The permit will be on a form designed by the City Council and will contain the name, address and agent for service of process (which must be a local person). The fee will prorate if issued during a part of a year.

- D. **Issuance of Permit:** The permit shall be issued by the City Council after a review of the proposed trailer park. The Council may refuse to issue a trailer park permit if there is not adequate drainage, access or utility service.
 - E. **Length of Time:** That a permit shall be for twelve months commencing January 1 of each year and a new permit must be secured each year.
 - F. **Placement of Trailer:** No trailer shall be parked within 15 (fifteen) feet of the property line.
 - G. **Yard Acreage:** A mobile home space shall have yard setbacks of not less than eight (8) feet on all sides.
5. **Enforcement:** A violation of this ordinance shall be punishable by a fine of not less than \$50.00 nor more than \$500.00 and each day a violation exists shall constitute a separate offense.
6. All Ordinances and parts of Ordinance in conflict herewith are hereby repealed.
7. All provisions to this ordinance needs to be met before water or sewer service can be connected.

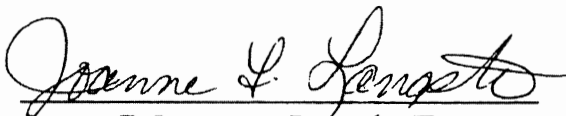
PASSED and APPROVED this 15th day of November, 2010.

City of Newark



Randy Hendrix, Mayor

Attest:



Joanne F. Langston, Recorder/Treasurer

EXHIBIT 9

BEFORE THE CITY COUNCIL OF NEWARK, ARKANSAS

An Ordinance Amending Ordinance 2010-08, Regulating
Trailer Parks, Trailer, Mobile Homes and Manufactured
Housing and Other Purposes

Ordinance 2011-07

Be it ordained by the City Council of Newark, Arkansas as follows:

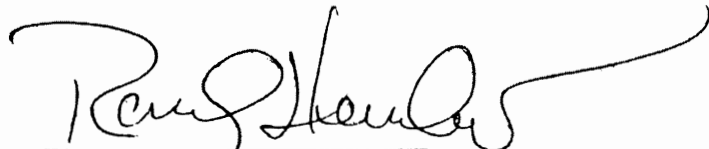
1. **Regulation Established:** From and after the passage of this ordinance trailer, mobile homes, manufactured housing and trailer parks shall be regulated and governed by this ordinance.
2. **Trailer-Mobile Home and Manufactured Housing Defined:** The words trailer, mobile home and manufactured home are synonymous. A trailer is a unit designed for use as human habitation moved to its site on wheels. It may or may not be self-propelled. Camping trailers and motor homes are also included.
3. **Placement of Trailers:** No trailer shall be placed in the City of Newark unless it is within the following categories:
 - A. Placed in a trailer park; or
 - B. Placed on dedicated lot in the City of Newark on which no other dwelling is located and the lot is at least 7,500 square feet and the lot fronts on a street; or
 - C. Is motor home or camping type unit which is parked along side of a house and no one uses it for habitation while so parked.
 - D. A trailer within the City of Newark shall be underpinned or skirted before water is turned on.
 - E. No trailer shall be placed within 15 (fifteen) feet of each property line.
 - F. No trailer shall be placed in the City of Newark unless it has a value established by a national appraisal guide of not less than \$25,000.00 (fifteen thousand dollars).
 - G. Has it's own water and sewer connection/deposit.
4. **Trailer Parks:** A trailer park will only be permitted in the City of Newark if it has the following minimum standards:
 - A. **Space Size:** Each trailer shall have a minimum lot size of 1,500 square feet.
 - B. **Individual Sewer and Water:** Each trailer in a trailer park shall have a separate city water and sewer hook-up.
 - C. **Permit Required:** No trailer park shall be allowed unless a permit has been secured. The permit fee shall be \$120.00 per year. The permit will be on a form designed by the City Council and will contain the name, address and agent for service of process (which must be a local person). The fee will prorate if issued

during a part of a year.

- D. **Issuance of Permit:** The permit may be issued by the City Council after a review of the proposed trailer park. The Council may refuse to issue a trailer park permit if there is not adequate drainage, access or utility service, or for other reasons including but not limited to suitability of the proposed area as a trailer park.
 - E. **Length of Time:** That a permit shall be for twelve months commencing January 1 of each year and a new permit must be secured each year.
 - F. **Placement of Trailer:** No trailer shall be parked within 15 (fifteen) feet of the property line.
 - G. **Yard Acreage:** A mobile home space shall have yard setbacks of not less than eight (8) feet on all sides.
5. **Enforcement:** A violation of this ordinance shall be punishable by a fine of not less than \$50.00 nor more than \$500.00 and each day a violation exists shall constitute a separate offense.
6. All Ordinances and parts of Ordinance in conflict herewith are hereby repealed.
7. All provisions to this ordinance needs to be met before water or sewer service can be connected.

PASSED and APPROVED this ^{10th}~~15th~~ day of November, ²⁰¹¹~~2010~~.

City of Newark


Randy Hendrix, Mayor

Attest:

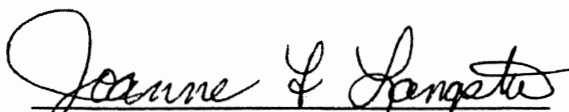

Joanne F. Langston, Recorder/Treasurer

EXHIBIT 10

ORDINANCE NO 2018-04

AN ORDINANCE SETTING MINIMUM STANDARDS FOR HOUSE TRAILERS AND MOBILE HOMES LOCATED OR PROPOSED TO BE LOCATED WITHIN THE CITY LIMITS OF THE CITY OF NEWARK, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

Whereas, it has been found that there are substandard house trailers also known as mobile homes inside the city limits of the City of Newark, and

Whereas, people have proposed to move or relocate house trailers from without the city limits of the City of Newark into the City of Newark, and

Whereas, some house trailers and mobile homes may be so substandard or unsafe as to constitute a serious risk to the health and safety of occupants of some house trailers and mobile homes, and to the citizens of the City of Newark, and

Whereas, it is found to be necessary to set certain minimum standards for those aforesaid house trailers and mobile homes presently located in areas zoned for house trailers and mobile homes, or those house trailers and mobile homes proposed to be relocated into those areas in the city of Newark presently zoned for house trailers and mobile homes,

Therefore it is found to be illegal to own or occupy house trailers and mobile homes inside the city limits of Newark which are found to be substandard.

SUBSTANDARD HOUSE TRAILERS AND MOBILE HOMES

Section 1: Application.

The provisions of this ordinance shall apply to the maintenance and condition of mobile homes and house trailers wherever in the city they are located, whether within or outside of areas zoned for such dwellings, and shall apply to mobile home parks and the installations for supplying fuel gas, water, and electricity to, and the disposal of sewage from, mobile homes and manufactured homes. Further, this ordinance is not intended and shall not be construed to amend or alter existing ordinances of the City of Newark, concerning zoning regulations, minimum lot size spatial requirements, or setbacks.

Section 2: Definitions.

As used in this article, the following terms have the stated meaning:

Life safety violation means a violation of this maintenance article that is deemed by the code enforcement officer to constitute an unsafe condition that presents an immediate

danger to human health, safety or welfare.

Life-threatening violation means a violation of this maintenance article which is deemed by the fire marshal or the city inspector or the city inspector's designee to pose an imminent danger of death, serious injury or serious disease.

Maintenance violation means a violation of this article discovered during a maintenance inspection performed pursuant to this article.

MH-unit means a mobile home or house trailer.

MH park means any mobile home park having one or more mobile homes within its boundaries.

Mobile home means a factory-assembled detached dwelling unit with the following characteristics:

- (a) Designed for full-time occupancy and containing sleeping, bathroom, and kitchen facilities, and
- (b) Has connections for utility systems that are provided on the intended site, and
- (c) Designed for highway transport with wheels, chassis, tongue, and other features related to transportability, and

Nonlife safety violation means a violation of this maintenance ordinance [section] that is deemed by the code enforcement officer to constitute a condition that does not present an immediate danger to human health, safety, or welfare.

Owner means the holder of the title to the MH-unit and any person shown in tax records to be the title holder or owner of the MH-unit.

Responsible party means either of the following:

- (a) For MH-park-owned property or facilities, the park owner or operator or an available person employed by the MH park as a manager of the MH park, and
- (b) An owner of a MH-unit.

Section 3: Substandard MH-unit.

It shall be unlawful for any owner, as defined herein, to permit, or allow to remain, any substandard MH-unit or to fail to take action to demolish, remove, or correct, any substandard MH-unit. Every substandard MH-unit is declared to be a nuisance and shall be abated by repair, rehabilitation, demolition or removal outside the city. An MH-unit

shall be deemed substandard and a nuisance when any of the following conditions exist that endangers the life, limb, health, property, safety, or welfare of the occupants or the public:

(a) Health hazards or inadequate sanitation that includes, but is not limited to, the following:

- (1) Lack of, inoperable, or malfunctioning water closet, toilet, lavatory, bathtub or shower, and
- (2) Lack of, inoperable, or malfunctioning kitchen sink, and
- (3) Lack of hot and cold running water to plumbing fixtures, and
- (4) Dampness of habitable rooms, and
- (5) Infestation of insects, vermin, or rodents, and
- (6) General dilapidation or improper maintenance, and
- (7) Obstructions in or lack of or improper connection of plumbing fixtures to a sewage disposal system, and
- (8) Lack of or malfunctioning of a required smoke detector.

(b) Structural hazards include, but are not limited to, the following:

- (1) Deteriorated or inadequate foundation or stabilizing devices, and
- (2) Deteriorated flooring or floor supports, and
- (3) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle, and
- (4) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle.

(c) Electrical hazards include, but are not limited to, the following:

- (1) All electrical wiring that has not been maintained in good and safe condition or is not being used in a safe manner, and
- (2) Metallic boxes, fittings, or equipment in an electrical wiring system that are not grounded to prevent shock, and

(3) Lack of electrical lighting or electrical lighting that is not maintained in safe condition.

(d) Plumbing hazards include, but are not limited to, the following:

- (1) Plumbing that has not been maintained in good or safe condition, and
- (2) Lack of effective traps providing a water seal for each plumbing fixture, and
- (3) Lack of effective venting of plumbing drain piping or hot water heaters, and
- (4) Broken, unsanitary or leaking plumbing pipe or fixtures, and
- (5) Any fixture, fitting, device or connection installed in such a manner as to permit contamination of the potable water supply.

(e) Hazardous mechanical equipment shall include, but not be limited to, the following:

- (1) Mechanical equipment that has not been maintained in good and safe condition, or is not being used in a safe manner, and
- (2) Unvented fuel-burning heating appliances unless their use is permitted by all applicable laws and regulations, and
- (3) Heating or fuel-burning equipment, including its vent, without adequate clearance from combustible material, and
- (4) Unsupported, loose, or leaking fuel supply piping, and
- (5) Lack of, inoperable or malfunctioning heating.

(f) Faulty weather protection shall include, but not be limited to the following:

- (1) Deteriorated or ineffective waterproofing of exterior walls, roof, or floors, including broken windows or doors, and
- (2) Missing or deteriorated skirting or underpinning. All skirting and underpinning materials shall consist of no decaying, no corroding materials that completely enclose the underside of the structure.

(g) Any MH-unit or portion thereof, device, apparatus, equipment, or combustible material that is in a condition posing a fire hazard or explosion hazard or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(h) Materials or construction that has not been adequately maintained in good and safe condition.

(i) All MH-units having a blocked exit or not having adequate or safe exit facilities, including doors and properly constructed steps to allow a safe exit of inhabitants.

Section 4: Process.

When a complaint alleging violation of this article is referred to the city, the code enforcement division of the city will do the following:

(a) Make reasonable efforts to contact the complainant to discuss the complaint, and

(b) Investigate allegations of violations representing an immediate risk to life, health, or safety or an unreasonable risk to health or safety.

(c) Nothing in this section shall operate to prohibit the city from initiating action to enforce the provisions of this article without a formal or informal complaint made to the city, a park owner, or to any other person.

Section 5: Requirement to abate violation.

The owner of the MH-unit, or MH park owner, MH park operator or responsible party for an MH-unit or utility connection under the owner's, operator's or responsible party's ownership or control, that is altered, converted, used, or maintained in a manner that constitutes a violation of this article, is required to abate the violation.

Section 6: Notice of violation.

(a) Whenever a city employee designated by the mayor or his duly authorized representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this ordinance, he shall give notice of such alleged violation to the person responsible therefore, that such alleged violation shall constitute a nuisance. Such notice shall:

(1) Be in writing, and

(2) Include a statement of the reasons why it is being issued and the section of the code that is alleged to be in violation, and

(3) State the action to be taken, which may include repair, correction, replacement or removal of the hazardous condition, and

(4) State that if the alleged violation is not corrected within the time set forth in the notice, the city employee designated by the mayor or his representative shall institute legal proceedings, charging the owner or responsible party with a violation of this article.

(b) The owner or responsible party or agent for such person shall be notified by one or more of the following methods:

(1) By delivery to the owner, agent or responsible party, personally, or

(2) By leaving the notice at the usual place, abode or business of the owner, agent or responsible party, with a person of suitable age and discretion, or

(3) By depositing the notice in the United States mail, addressed to the owner, agent or responsible party, at such person's last known address by certified mail, postage prepaid thereon, or

(4) By depositing the notice in the United States mail, addressed to the owner, agent or responsible party, at his last known address by regular mail with a notarized affidavit stating date mailed, postage prepaid thereon. Charges as per zoning ordinance.

(c) Written notice shall be considered to have been served if delivered at, or sent by certified mail to, the last business or residential address known to the party giving the notice.

Section 7: Tenant responsibility.

(a) It is a violation of this article for any person having care, custody or control of a rental MH-unit to damage, destroy or tamper with the MH-unit or its utility connections thereby causing noncompliance with this article.

(b) Before the city can issue a citation under this section, the owner shall provide the code enforcement officer or suitable designee of the city with written documentation signed and dated by the tenant indicating that the condition causing noncompliance did not exist when the tenant took possession of the MH-unit. This document shall be in a form approved by the city mayor or his designee. Furthermore, the code enforcement officer shall determine that the tenant in possession of the MH-unit damaged, destroyed or tampered with the MH-unit or its utility connections, thus causing noncompliance with this article.

work was performed by a state-licensed master plumbing contractor or that the work was accomplished according to the warranty.

(h) Unless determined otherwise by the inspecting code officer, any structural repairs or replacement of structural components shall be performed only by a city or state-licensed contractor or, when the home is under manufacturer's warranty, by a person authorized under the warranty to perform repairs. Compliance with the required repairs shall be established by a written receipt showing the required work was performed by a city or state-licensed contractor or that the work was accomplished according to the warranty.

(i) Unless determined otherwise by the inspecting code officer, any mechanical repairs or replacement of heating, ventilation and air conditioning components shall be performed only by a state-licensed mechanical contractor or, when the home is under manufacturer's warranty, by a person authorized under the to perform repairs. Compliance with the required repairs shall be established by a written receipt showing the required work was performed by a city or state-licensed mechanical contractor or that the work was accomplished according to the warranty.

(j) This ordinance article does not require a city building permit and building codes inspection for mobile home or manufactured home repairs or replacements, except for the following:

(1) Connection to water or gas service up to the MH-unit; installation of an electricity meter loop; or connection of an outside heating or cooling unit, such as a condenser;

(2) Where the value of labor and materials exceeds five hundred dollars (\$500.00) for steps, decks, ramps, outside storage units, accessory buildings, foundations, underpinning, skirting, fencing and screening.

(k) The failure of an owner to correct the maintenance deficiencies prohibited by this article within the established time period may result in the declaration of such structure to be unsafe pursuant to the procedures established in this ordinance. Upon a declaration that a MH-unit is unsafe and before an order is issued to raze or remove the structure, any lien holders of record shall be notified and shall have an opportunity to be heard.

Section 9: Registration of mobile homes

(a) Registration procedure.

(1) [Registration required.] No later than ten 10 days after entering the City of Newark, all mobile homes shall be registered with the city by completion of the registration form available at the city hall and payment of

Section 8: Repairs.

Needed repairs, including replacements, identified by the code officer shall be made within the following time frames and in compliance with the following requirements:

- (a) Within the time set forth in the notice of a life-threatening violation, the owner or owner's agent shall make the required repairs.
- (b) The owner or owner's agent shall complete code compliance for all life safety violations within seven (7) days of the notification by the city. A certificate of compliance shall not be issued until all violations in the notice are corrected. Re-inspection fee at the owner's expense.
- (c) Within thirty (30) days of the issuance of the notice of violation of a nonlife violation, the owner or owner's agent shall complete such repairs, except that if a good faith effort is demonstrated, all life safety violations were corrected within seven (7) days of the notification by the city, and there is consistent and continuous progress shown on the remaining items, the building official may an extension for repair of all nonlife safety violations to a time not to exceed sixty (60) days from the notification of violation.
- (d) If the owner has completed all repairs to correct life-threatening and life safety violations and has initiated repairs for the nonlife safety violations, an extension, not to exceed sixty (60) additional days, may be granted if the request is submitted in writing to the mayor outlining the reasons for a request for extension.
- (e) If a life-threatening or a life safety violation is resolved by the property becoming vacant and the utilities having been removed, the violation shall be corrected within the time frame established for a nonlife safety violation. The unit shall not be reoccupied until all life-threatening or life safety violations have been corrected.
- (f) Unless determined otherwise by the inspecting code officer, any electrical repairs or electrical fixture replacement shall be performed only by a state-licensed master electrician or, when the home is under manufacturer's warranty, by a person authorized under the warranty to perform repairs. Compliance with the required repairs shall be established by a written receipt showing the required work was performed by a state-licensed master electrical contractor or that the work was accomplished according to the warranty.
- (g) Unless determined otherwise by the inspecting code officer, any plumbing repairs or plumbing fixture replacement shall be performed only by a state-licensed master plumber, or, when the home is under manufacturer's warranty, by a person authorized under the warranty to perform repairs. Compliance with the required repairs shall be established by a written receipt showing the required

the registration fee by the owner of the home. The registration form shall require descriptive information about the MH-unit.

(2) The registration permit shall be issued by the City of Newark upon presentation of a complete application and payment of the required registration fee. Fees same as a building permits.

(b) [Deadline.] Any mobile home brought into the city after the date of passage of this section shall be registered by the owner within ten (10) days after being located in the city.

(c) Relocation. Relocation of an MH-unit that has already been registered with the city shall require a new registration and payment of the established fee within (10) days of the relocation.

Section 10: Inspection; required notification of move into or within the city.

(a) Inspection. After the date of passage of this section, all MH-units moved onto a city lot, or moved within a lot, where the home is to be used for residential shall be inspected within ten (10) days of being moved to ensure their compliance with the maintenance requirements in this article and to ensure proper utility connections, footings or tie-downs as applicable. New mobile homes are exempt from the maintenance inspection requirement. All MH-units, including new mobile homes, moved onto a different home site, whether to a city lot or within the same lot, are required to have satisfactory inspections for utility connections, footings and tie-downs, as applicable.

(b) Notice of move. Owners of all mobile homes moved into the city and owners of all MH-units moved within the city to another location, including within the same lot, are required to notify the permit section of the planning and development department of the move no later than three (3) days after the relocation.

Section 11: Razing, removal.

A MH-unit that has been ordered to be razed or removed due to the existence of violations or a nuisance shall be razed or removed in a manner consistent with law.

Section 12: Severability

If any part or parts of this ordinance should be declared unconstitutional or otherwise unlawful by any court of competent jurisdiction, then that part or parts of this ordinance shall be deemed to have been severed from this ordinance and the remaining portions thereof shall remain in full force and effect as if the part or parts of the ordinance so declared unconstitutional or unlawful were never a part thereof.

Section 13: Mobile Homes

All single-family dwellings and mobile homes in the R-MH district are subject to the following standards:

- (a) Dwellings shall have a minimum width or length of 20 ft. on any side.
- (b) Dwellings shall be oriented such that the front door of the structure faces the street.
- (c) Dwellings shall be constructed with a type of siding that is consistent with other homes in the general vicinity.
- (d) Roofs shall be pitched and shingled or 29 gauge painted metal (passed July 14, 2015).
- (e) Any transportation elements including axles and hitches shall be removed from the structure.
- (f) All dwelling units that do not have a built-in front porch as part of the structure shall have a covered front landing, accessible by stairs with handrails, if necessary. The landing shall be at least six feet by six feet and oriented to the front yard.
- (g) Units shall be set up and anchored in accordance with regulations set forth by the Arkansas Manufactured Home Commission, if applicable.
- (h) Units shall have a solid masonry or concrete perimeter foundation around the base of the perimeter of the structure. Skirting may substitute the solid foundation within the A-1 district.
- (i) The dwelling will be the principal structure on the lot.
- (j) Dwellings moved into this zoning district shall be new and under warranty or inspected by the city's Administrative Official to ensure the dwelling will be inhabitable in a safe manner.
- (k) All units moved into the city must have electrical, plumbing, gas service, and fire inspections.

Section 14: EMERGENCY CLAUSE: The City Council of the City of Newark, Arkansas finds that some house trailers and mobile homes may be so substandard or unsafe as to constitute a serious risk to the health and safety of occupants of some house trailers and mobile homes, and to the citizens of the City of Newark, and declares that this ordinance is necessary to protect the health, welfare and safety of the citizens of Newark and an emergency is hereby declared and this ordinance shall be in full force and effect from and after this date.

PASSED AND APPROVED THIS 10th DAY OF April, 2018


Jim Cunningham, Mayor

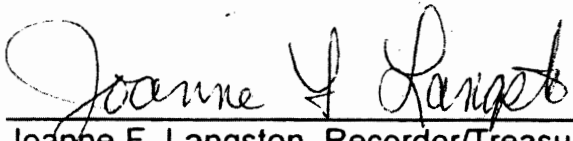

Joanne F. Langston, Recorder/Treasurer



EXHIBIT 11

City of Newark

Comprehensive Plan

February 2015



Resolution 2015-04
February 10th, 2015

Urban Planning Associates, Inc.

Planning | Management | GIS
planyourcity.com | (901) 372-3132

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The plan serves as an official policy statement of the City of Newark for directing orderly growth and development within its city limits and planning area. The Newark Planning Commission directed the preparation of the plan during a process which included careful study of the area. Areas of analysis include Newark's history, demographics and projected population, topography, utility capacity, transportation systems, existing infrastructure, and surrounding land use.

The plan will help guide the decisions of both the Planning Commission and City Council during the planning period, estimated to be 25 years. The Comprehensive Plan serves all citizens and property owners within the planning area as well as others having a stake in the future of the city. Specifically, it impacts the following:

- Residents of the area who expect a stable social and economic environment.
- Potential residents who may be contemplating major investments in the community.
- Business owners whose livelihood depends on continued growth and prosperity.
- Potential business owners and investors who may move into the city.
- The Newark City Council.
- Municipal departments and department heads.
- Organizations promoting economic development in the area.
- Professionals in real estate or development.

The Comprehensive Plan provides a broad guideline for orderly growth and development. It is not meant to direct land use arrangement precisely nor is it a zoning ordinance. It should serve as an instrument to blend public and private interests in a manner that will best suit the entire community. Citizens and business interests may look at the plan as a "constitution" for the City of Newark. Unlike a national constitution, however, it may change more often to meet new challenges and growth issues.

The plan will remain flexible, allowing for necessary modification of land uses. It plots land usage areas according to long-term community needs, not short-term individual gains. Planning should also be based on sound development principles. The plan addresses pertinent community issues as a whole rather than treating isolated problems as they may arise.

1.2 Authority

The purpose of the Comprehensive Plan is consistent with the provisions of Arkansas Codes, Annotated (A.C.A.), §14-56-403. This section requires that plans of a municipality be "... prepared in order to promote, in accordance with present and future needs, the safety, morals, order, convenience, and general welfare of the citizens." The statutes further state that plans may provide for, among other things, the following:

- Efficiency and economy in the process of development
- The appropriate and best use of land
- Convenience of traffic and circulation of people and goods
- Safety from fire and other dangers
- Adequate light and air in the use and occupancy of buildings
- Healthful and convenient distribution of population

For Sale	15	4
Rented or Sold, Not Occupied	6	0
Seasonal Use	4	2
Abandoned/Other	20	34

SOURCE: U.S. CENSUS

TABLE 3.4.4
HOUSING CHARACTERISTICS, 2000-2010
NEWARK, ARKANSAS

Housing Type & Characteristics	2000	2010
Total Housing Units	562	564
Single Family	71.4%	63.6%
Multi-Family	8.7%	11.8%
Mobile Home, trailer, or other	17.6%	24.5%
Occupied Units	89.0%	86.2%
Owner Occupied	68.8%	71.8%
Renter Occupied	31.2%	28.2%
Vacant Units	11.0%	13.8%
Homeowner Vacancy Rate	4.2%	1.1%
Renter Vacancy Rate	9.8%	21.7%
Median Monthly Mortgage (2012 Dollars)	\$737	\$829
Median Value of Owner-occupied Units	\$64,520	\$73,100
Median Rent	\$469	\$596

SOURCE: AMERICAN COMMUNITY SURVEY ESTIMATES