ORDINANCE NO. 2007-04

AN ORDINANCE TO PROVIDE A MECHANISM BY WHICH AGGRIEVED PERSONS, FIRMS, OR CORPORATIONS MAY PETITION THE CITY PLANNING AND ZONING COMMISSION FOR THE GRANTING OF VARIANCES RELATED TO THE NON-CONFORMING USE OF A SPECIFIC PARCEL OF REAL PROPERTY LOCATED WITHIN THE CITY LIMITS OF MULBERRY OR WITHIN THE CITY OF MULERRY'S PLANNING AND ZONING JURISDICTIONAL AREA.

WHEREAS, the City of Mulberry, Arkansas, desires to provide a mechanism by which aggrieved persons, firms or corporations may petition the City Planning and Zoning Commission for the granting of variances related to the non-conforming use of a specific parcel of real property located within the city limits of the City of Mulberry, Arkansas, or within the City of Mulberry's planning and zoning jurisdictional area; and

WHEREAS, the City of Mulberry, Arkansas, desires to provide a fair and equitable process for the consideration and processing of any such request.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MULBERRY, ARKANSAS:

SECTION 1. Any person, firm or corporation may apply for a variance from the terms of the City of Mulberry, Arkansas, Planning and Zoning Regulations in cases where a specific piece of property, characterized by exceptional narrowness, shallowness, or shape or where, by reason of exceptional topographic conditions or other extraordinary or exceptional situations or conditions of the piece of property, provided that such relief shall be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these Planning and Zoning Regulations.

Before any variance is granted, it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood.

SECTION 2. An application for variance to the Planning and Zoning Commission may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the City of Mulberry's Planning and Zoning Regulations, based in whole or in part upon the provisions of said regulations. The Planning and Zoning Commission shall publish a notice of the time and place of a public hearing upon such application for variance; such notice shall be published at least once, not less than ten days preceding the date of any such hearing, in a newspaper of general circulation in Crawford County, Arkansas, such notice to contain the particular location for which the variance is requested as well as brief description as to the terms of the proposed variance. Further, a sign at least two feet wide and three feet high shall be placed upon the property by a representative of the City of Mulberry, Arkansas, giving the date and place of the public hearing and the terms of the variance, fifteen days before the date of any such public hearing. The Planning and Zoning

Commission shall also give notice of such hearing to interested persons and organizations as it shall deem feasible and practical. Upon the date of the hearing, any party may appear before the Planning and Zoning Commission in person or by attorney.

The applicant for any such variance shall be required to pay a filing fee of $125.00 to cover the cost of publication and mailing notices and such other expenses as may be incurred in connection with such application.

SECTION 3. The Planning Zoning Commission shall hear and decide, at its next regularly scheduled meeting following the expiration of the notice requirements set out herein, all applications for variance from the terms of the Planning and Zoning regulations.

SECTION 4. Appeal from the decision of the Planning and Zoning Commission shall be to the Mulberry City Council by majority decision. If the City Council is deadlocked after the vote, the deadlock shall be broken by the Mayor.

SECTION 5. Appeal from the decision of the Mulberry City Council shall be to a court of record having jurisdiction over the property which is the subject of the variance. Any appeal of the decision of the Mulberry City Council shall be made, in writing, to the Circuit Court within thirty days after the issuance of a written decision by the City Council.

SECTION 6. This Ordinance is hereby declared to be severable and any portions or sections which may be declared unconstitutional or illegal shall be stricken by a court or competent jurisdiction and all other provisions and sections of this Ordinance shall remain in full force and effect.

SECTION 7. Being necessary for the continued protection of the general public and for the peace and welfare of the citizens of Mulberry, Arkansas, an emergency is hereby declared to exist and this Ordinance shall take full force and effect immediately upon its passage.

PASSED AND APPROVED THIS 20TH DAY OF FEBRUARY, 2007.

APPROVED:

Betty Feller

Betty Feller, Mayor

ATTEST:

Jerry Dickerson

Jerry Dickerson, Recorder/Treasurer