ORDINANCE NO. 2011-07

AN ORDINANCE TO PROVIDE A PROCEDURE FOR NOTICE OF LANDOWNERS CONCERNING UNSIGHTLY, HARMFUL OR HAZARDOUS PROPERTY, REQUIRING INSPECTION, COSTS OF REMOVAL, LIEN PROVISIONS OF THE CITY OF MULBERRY, REPEALING ORDINANCE NO. 99-6 AND ORDINANCE NO. 2002-11, AND FOR OTHER PURPOSES.

BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF MULBERRY, ARKANSAS:

1. Pursuant to Arkansas Code Annotated 14-54-901 *et seq.*, and Arkansas Code Annotated 14-54-602, *et seq.*, and from and after the date of this ordinance, it shall be unlawful for the owner or custodian of real property located within the city limits of Mulberry, Arkansas to allow grass, weeds, brush or any growth to exceed six (6) inches in height, except those lands which constitute one contiguous tract larger than two (2) acres in size and which have never been cleared or developed and which remain in its natural state.

2. Further, it shall be unlawful for the owner or custodian of real property located within the city limits of Mulberry, Arkansas to allow garbage, rubbish, and other unsightly and unsanitary articles and things to remain upon the property, including, but not limited to, refuse, inoperative household appliances, inoperative motor vehicles, travel trailers, RVs, campers, mobile homes, dying or dead trees, or to allow stagnant pools of water or any other place for mosquitoes, flies, and germs harmful to the health of the public, from and after the passage of this ordinance.

3. The Mayor, or a person designated by him, shall inspect any property within the city limits of Mulberry, Arkansas, and upon a finding that the owner or custodian appears to be in violation of this ordinance, shall notify such owner or custodian, in writing, at his or her last known address, giving such owner or custodian seven (7) days notice to remove, or abate or eliminate the condition complained of. Notice shall be provided in one of two ways as follows:

1. Certified U.S. Mail, return receipt requested, or

2. Delivered in person by the Mayor, or a person designated by the Mayor.

The notice shall state that the subject property, by either street address or metes and bounds, has been inspected; that it is in violation of this ordinance; that the owner or custodian is made liable by Arkansas Code Annotated 14-54-901 and 602 and this Ordinance; that a copy of the Ordinance is attached to the notice; that unless the violative conditions have been abated within seven (7) days, the City will bring the property into compliance; that the charges to bring the property into compliance will be charged to the owner or custodian; and if not paid, such charges shall constitute a lien on the subject property and may be collected as real property taxes; that only the one notice will be given, but that the City shall continually abate the violative conditions

at least every thirty (30) days during the current growing season and that the additional costs shall be charged and collected.

4. In cases where the owner or custodian of any property is unknown or his whereabouts is not known or he is a nonresident of this state, then a copy of the written notice as set out in Section 3 above shall be posted upon the premises.

5. If, after notice, the condition of the property is not brought into compliance, the City shall pay for services necessary to bring the property into compliance and send a statement to the absentee owner or custodian for the costs of such services.

6. In the event the owner and/or occupant of real property shall fail or refuse to so comply with such notice within the time specified therein, the Mayor may authorize City Staff, or private persons hired for that purpose, to enter upon the property and have said weeds, rank grass, or other vegetation cut and removed, or eliminate any unsanitary and unsightly condition or other violative condition, and the cost thereof, as determined shall be charged to the owner and/or occupant of the real property, and shall be charged against said premises and shall constitute a lien thereon.

7. Upon failure of payment, the amount of the lien shall be determined at a hearing before the City Council after thirty (30) days written notice is sent by certified mail to the owner of the property if the name and whereabouts of the owner are known. If not known, or if the owner cannot be determined, then the amount will be determined only after publication of notice of the hearing in a newspaper having a bona fide circulation in the county where the property is located for one (1) insertion per week for four (4) consecutive weeks, and an attorney ad litem appointed to notify the defendant of the hearing by registered letter addressed to his last known place of residence if it can be found. The amount so determined, plus ten percent (10%) penalty for collection, shall be certified by the City Council to the tax collector of Crawford County for placement by the tax collector on the tax books as delinquent taxes, pursuant to law. Such amount, when collected, less three percent (3%) thereof, shall be paid to the City of Mulberry, Arkansas.

8. All other procedures as to enforcement of the lien herein obtained shall be pursuant to A.C.A. 14-54-901, *et seq*.

9. In addition to the civil enforcement procedures set out herein, in the event the owner and/or occupant of any real property, who is given a Notice to abate a condition pursuant to provides of this Ordinance, shall fail or refused to so comply with such Notice within the period of time established for compliance by such Notice, said owner and/or occupant may be issued a Citation by a police officer of the City of Mulberry of Summons from the Court to appear in the Mulberry City Court and upon conviction thereof shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than ONE HUNDRED DOLLARS ($100.00) and each day that such owner and/or occupant refuses to comply with the Notice after the expiration of the time limit provided, shall be considered a separate offense and be subject to the same fine as set out herein.

10. This Ordinance supersedes any and all other and previous ordinances, specifically Ordinance No. 99-6 and Ordinance No. 2001-11.

11. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist and the same shall be in full force and effect immediately after its passage.

PASSED AND APPROVED THIS 19TH DAY OF APRIL, 2011.

APPROVED:

Gary Baxter, Mayor

ATTEST:

Jerry Dickerson, Recorder-Treasurer