CITY OF MULBERRY, ARKANSAS
ORDINANCE 2026-02

AN ORDINANCE TO AMEND ORDINANCE NO. 2007-04 TO CLARIFY PUBLIC HEARING NOTICE PROCEDURES BY: (1) REPLACING THE NEWSPAPER PUBLICATION REQUIREMENT WITH POSTING AT THE FIVE (5) DESIGNATED PUBLIC PLACES CONSISTENT WITH ARKANSAS CODE § 14-55-206; (2) CONFORMING THE POSTING PERIOD TO THE THREE (3) DAY REQUIREMENT OF THE ARKANSAS FREEDOM OF INFORMATION ACT, § 25-19-106; AND (3) REDUCING THE REQUIRED PROPERTY SIGN POSTING PERIOD FROM FIFTEEN (15) DAYS TO SEVEN (7) DAYS PRIOR TO A VARIANCE HEARING

WHEREAS, the City of Mulberry, Arkansas, enacted Ordinance No. 2007-04 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 real property within the city limits or planning and zoning jurisdictional area; and

WHEREAS, Section 2 of Ordinance No. 2007-04 currently requires that notice of a public hearing on a variance application be published at least once, not less than ten (10) days preceding the date of any such hearing, in a newspaper of general circulation in Crawford County, Arkansas; and

WHEREAS, no newspaper is currently published in the City of Mulberry, Arkansas; and

WHEREAS, Arkansas Code Annotated § 14-55-206(a)(1)(B) provides that in municipalities in which no newspaper is published, written or printed notice posted in five (5) of the most public places designated by the governing body in an ordinance or minutes of the governing body shall be deemed sufficient publication of any law or ordinance; and

WHEREAS, pursuant to Ordinance No. 2018-01, as amended by Ordinance No. 2024-04, the City of Mulberry has designated five (5) public posting locations, being: City Complex, Post Office, Today's Bank, Library, and Mulberry Community Pharmacy; and

WHEREAS, Arkansas Code Annotated § 25-19-106(b)(1)(B) of the Arkansas Freedom of Information Act requires that notice of a public meeting be provided at least three (3) days before the meeting takes place; and

WHEREAS, Section 2 of Ordinance No. 2007-04 also requires that a sign be posted upon the subject property at least fifteen (15) days before the date of any public hearing on a variance application, and the City Council finds that seven (7) days is sufficient notice for such property sign posting; and

WHEREAS, the City Council finds that amending Ordinance No. 2007-04 to align its notice procedures with applicable state law is in the best interests of the City and the public;

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

SECTION 1. That Section 2 of Ordinance No. 2007-04 is hereby amended in its entirety to read as follows:

> *"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 provide notice of the time and place of a public hearing upon such application for variance by posting written or printed notice at the five (5) most public places designated by the City of Mulberry pursuant to Ordinance No. 2018-01, as amended. Such notice shall be posted* ***not less than three (3) days*** *preceding the date of any such hearing, and shall contain the particular location for which the variance is requested as well as a brief description of 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,* ***seven (7) 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 posting notices and such other expenses as may be incurred in connection with such application."*

SECTION 2. For purposes of this Ordinance, the five (5) designated public posting locations shall be those established under Ordinance No. 2018-01, as amended, and as may be further amended by the City Council from time to time. Any future amendment to the designated posting locations shall automatically apply to the notice requirements of Ordinance No. 2007-04, as amended herein.

SECTION 3. All other sections of Ordinance No. 2007-04 not expressly amended herein are hereby ratified and confirmed and shall remain in full force and effect.

SECTION 4. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. 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 of competent jurisdiction and all other provisions and sections of this Ordinance shall remain in full force and effect.

SECTION 6. This ordinance shall be in full force and effect from and after its passage and approval according to law.

SECTION 7. It is hereby found and determined that a pending variance application currently before the Mulberry Planning and Zoning Commission requires that proper public notice be given in accordance with the provisions of this Ordinance, and that any delay in the effectiveness of this Ordinance would be detrimental to the public interest. Therefore, an emergency is hereby declared to exist and this Ordinance, being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect immediately upon its passage and approval.

PASSED AND APPROVED THIS 21 **DAY OF** April **, 2026.**

APPROVED:

Gary D. Baxter, Mayor

ATTEST:

Carla Dickerson, Recorder/Treasurer