

**TOWN COUNCIL
TOWN OF MULBERRY, INDIANA**

ORDINANCE NO. 2023-276

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
MULBERRY, INDIANA AMENDING § 93.06
RELATED TO ADMINISTRATION AND ENFORCEMENT;**

WHEREAS, Indiana Code § 36-1-3-4 provides a municipality all powers necessary to conduct its affairs, even if not expressly granted by statute;

WHEREAS, the Town of Mulberry, Indiana (hereinafter the "Town") believes it is in the best interest of its residents to enact ordinances for the regulation of health and sanitation, including nuisances, within the Town; and

WHEREAS, the Town determined § 93.06 of the Town of Mulberry, Indiana, Code of Ordinances should be amended to revise the administration and enforcement.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF MULBERRY, INDIANA, AS FOLLOWS:**

1. The Town of Mulberry, Indiana, Code of Ordinances § 93.06 is hereby amended to revise the administration and enforcement as follows:

(A) Except in the case of any unkempt lawn, in any case where a nuisance exists, the Town Marshal, his or her deputy, any employee of the Town or any officer of the Town Council may be authorized and directed to serve notice upon the owner of the premises where the nuisance exists to abate the nuisance within thirty (30) days of the notice. In case the nuisance is an unkempt lawn, the notice shall require the nuisance to be abated within seven (7) days of the notice. Such notice shall only be required when the Town Marshal, his or her deputy, any employee of the Town or any officer of the Town Council determines it is in the best interest of the Town to abate the nuisance on behalf of the Town and should not be interpreted to require such notice prior to the Town exercising enforcement through §93.99.

(B) If the Owner or occupant shall refuse or fail to abate the nuisance within the designated time:

(1) The Town Council may remove or cause to be removed or do cause to be done other acts as are necessary and reasonable to abate the nuisance, by authorizing Town employees and/or third parties to perform the work; and

(2) In cases other than abatement of unkempt lawns, the owner of the premises shall be liable to the Town for the actual costs of abatement, including the costs of contracted

services, the reasonable value of the time and applicable employer costs associated with the time spent by Town employees assigned to abate the nuisance, the costs of rental, repair, and fair rental value of owned property employed to abate the nuisance, and the costs of any materials used to abate the nuisance;

(3) In cases of abatement of unkempt lawns, the owner shall be liable to the Town for the sum of \$200 per mowing, in addition to the costs of repair, or (in the cases of irreparable damage) the depreciated replacement value of any Town owned equipment damaged by objects not seen in the process of mowing;

(4) The costs of abatement of nuisances described herein, when certified by the Clerk-Treasurer, delivered, and filed in accordance with Indiana law, shall constitute a lien upon the property on which the nuisance was abated, and shall be enforceable as other liens upon real property;

(5) The person or persons shall be jointly and severally subject to the penalties provided in § 93.99 and without limitation or exclusion of the Town's remedies in addition to any expenses provided in §§ 93.06(B)(1) through 93.06(B)(4) above;

(6) In lieu of appearing before a court of competent jurisdiction, the person so charged may pay the fine assessed within fourteen days to the Mulberry Ordinance Violations Bureau. Upon conviction of a third or subsequent offense committed within one year after the date of the first offense, the penalty shall be a fine of not more than \$1,000. Progressive fines according to number of offenses is as follows:

1 st offense	\$200
2 nd offense	\$250
3 rd offense	\$300
4 th offense	\$350
5 th offense	\$400
6 th offense	\$450
7 th offense	\$500

Up to a fine of \$1,000.

(7) Hand delivery to the owner of owner-occupied premises or by mail addressed to the owner of record at the address of the owner for the delivery of property taxes, with proof of mailing, shall be deemed sufficient for all purposes under this subchapter when notice to the owner may be given.

(8) The Town may only issue tickets one (1) time in any seven (7) day period for a violation of an unkempt lawn.

2. This amendatory ordinance shall be effective upon passage, publication, and posting in accordance with Indiana law.

Adopted June 13, 2023.

**TOWN COUNCIL OF THE TOWN OF
MULBERRY, INDIANA**

Dave Jones, President

Lois Rohdy, Member

Rick Bennett, Member

Don Devore, Member

Randy Ravenscraft, Member

ATTEST:

Paula Bennett, Clerk-Treasurer

APPROVED AS TO FORM AND LEGALITY:

Alicia K. Albertson, Town Attorney