

ORDINANCE 2017- 1

AN ORDINANCE SUPERSEDING ORDINANCE 2012-1, AN ORDINANCE PROHIBITING NUISANCES IN THE CITY OF ROCKPORT, IN

WHEREAS, the Common Council deems it in the best interest of the City of Rockport, Indiana (the "City") to update and define its ordinances addressing and governing nuisances and their abatement.

BE IT ORDAINED by the Common Council of the City:

I. Nuisances Defined.

For the purposes of this Article, the word **NUISANCE** is hereby defined as the doing of an unlawful act, or the omitting to perform a duty, or the suffering or permitting of any condition or thing to be or exist, which act, omission, condition or thing either:

- (a) Injures or endangers the comfort, repose, health or safety of others; or
- (b) Offends decency; or
- (c) Is offensive to the senses; or
- (d) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- (e) In any way renders other persons insecure in life or the use of property; or
- (f) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Illustrative Enumeration of Nuisances

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or constructed to be conclusive, limiting or restrictive:

- (a) Vegetation which has attained a height of twelve (12) inches or more and has not been cut, mowed, or otherwise removed from private property; vegetation planted for some useful or ornamental purpose is excepted from this definition.
- (b) Vegetation, trees or woody growth on private property which, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement.
- (c) A condition which causes property to become a health or safety hazard, unless specifically authorized under existing laws and regulations.

- (d) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (e) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (f) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located. (Subject to Ord. No. 445; I.C. § 36-7-9-1 et seq.)
- (g) All unnecessary or unauthorized noises and annoying vibrations.
- (h) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- (i) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (j) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, industrial wastes or other substances.
- (k) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (l) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (m) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- (n) The unauthorized obstruction of any public street, road or sidewalk.

II. Nuisances Prohibited.

It shall be unlawful for any property owner or occupant or other person to allow a nuisance to exist.

III. Penalty.

Any person who violates any provision of this Ordinance shall be subject to the following fines:

- (a) First offense in a calendar year: \$50.00, plus court costs if applicable;
- (b) Second offense in a calendar year: \$100.00, plus court costs if applicable;
- (c) Third offense and each subsequent offense in a calendar year: \$150.00, plus court costs if applicable.

IV. Abatement Procedures and Fees.

- (a) The Board of Public Works and Safety may at any time require the owner and/or occupant of any property upon which a nuisance exists as herein defined to do all things necessary to remove the nuisance from such property by giving the owner and/or occupant ten (10) days written notice to the existence of the nuisance. The notice as herein required shall state the nature of the alleged nuisance and the action deemed necessary to correct the condition and shall fix a date not sooner than ten (10) days from the date of mailing of the notice when said property owner and/or occupant may appear before the Board of Public Works and Safety to be heard on the question of the nuisance. All notices as herein required shall be sent by first class U.S. mail, postage prepaid, to the occupant or owner at the address of the property, if it be a dwelling, and to the last known address of the owner as reflected in the tax rolls of the City, Ohio Township, or Spencer County or as reflected in the City's utility billing records. Upon the failure of the owner and/or occupant to cause the abatement of the nuisance as required by this Section, and after notice and opportunity for hearing before the Board of Public Works and Safety, the Board shall proceed at once to cause the nuisance to be abated and charge the cost thereof against such owner and/or occupant of said property. The liability created herein shall be joint and several as to the owners and any occupants or tenants. A copy of the notice shall be sent to persons or entities having a lien on the real estate, except for governmental liens.
- (b) In the event that the Board of Public Works and Safety, or its designee, shall cause to be abated a nuisance on any property, then as compensation to the City for its services in causing the abatement, the owner and/or occupant shall be charged the following fees:
 - (1) Twenty Dollars (\$20.00) for each inspection necessary to determine compliance with the provisions of this Article.
 - (2) Twenty Dollars (\$20.00) for determining private property ownership when necessary.
 - (3) Twenty Dollars (\$20.00) for each time a first class letter is written to the occupant or owners.
 - (4) Twenty Dollars (\$20.00) per man hour, or fraction thereof, for labor necessary to abate the nuisance.
 - (5) Fifty Dollars (\$50.00) per machine hour, or fraction thereof, for the use of each piece of equipment use in abating the nuisance.

V. Collection Fees ¹

The Board of Public Works and Safety shall, upon completion of all acts necessary to abate the nuisance, send a statement to the owner and/or occupant of the property notifying said owner and/or occupant of the fees and charges owing to the City for its services. Upon the failure of the owner and/or occupant to pay said fees and charges

in full within thirty (30) days, the Board of Public Works and Safety then may cause such charges and fees to be placed upon the tax duplicate and collected the same as taxes. The Board of Public Works and Safety may, in the alternative, refer said charges and fees to the City Attorney who shall forthwith collect the fees and charges by civil process,

¹ I.C., 36-1-6-2 authorizes the City to enter onto real property and correct Ordinance violations and obtain a lien for the same.

VI. Other Powers of Board of Public Works and Safety.

The Board of Public Works and Safety shall, where necessary, designate individuals and institute procedures to carry into force and effect this Article.

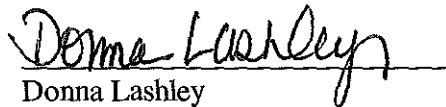
VII. Article to be Supplemental.

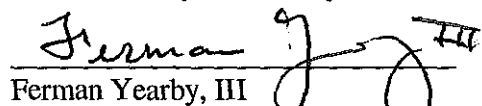
Except for Ordinance No. 2012-1, An Ordinance Superseding Ordinance No. 2011-12, An Ordinance Prohibiting Nuisances In The City Of Rockport, Indiana, which is hereby rescinded and superseded, the provisions of this Article are hereby declared to be supplemental to all other ordinances of the City.

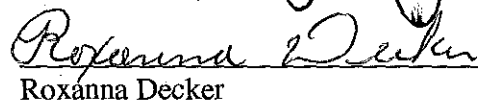
VII. Separability.

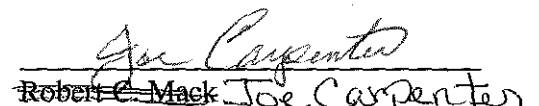
Each section and each provision or requirement of any section of this ordinance shall be considered separable, the invalidity of any portion of this ordinance shall not affect to the validity or enforceability of any other portion.

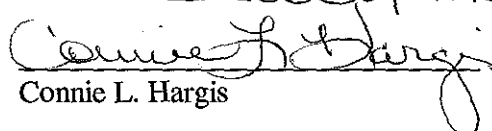
Common Council:


Donna Lashley


Ferman Yearby, III


Roxanna Decker


~~Robert C. Mack~~ Joe Carpenter


Connie L. Hargis

Presented by me to the Mayor of the City of Rockport, Indiana on the 13th day of March, 2017 at 6:15 o'clock p.m.

Susie Roberts

Susie Roberts,
Clerk-Treasurer

Approved and signed by me this 13th day of March, 2017 at 6:15pm o'clock p.m.

Gaye Ann Harney
Gaye Ann Harney, Mayor
City of Rockport