

CITY OF RISING SUN
ORDINANCE 2013-9

AMENDMENT TO AMENDED ORDINANCE 1995-5
ABATEMENT REGARDING NOTICE OF NUISANCE OR ACTION;
ABATEMENT BY CITY; COLLECTION OF FEES.

WHEREAS, on May 4, 1995, Amended Ordinance 1995-5 was enacted by the City of Rising Sun, Indiana to do all things necessary to remove nuisances from property, or to cease and desist from all activity giving rise to the creation of nuisance; and,

WHEREAS, the Common Council of the City of Rising Sun has found that there exists a need for amending said Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF RISING SUN, INDIANA as follows:

(A) The Mayor or City Council 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 the property, or to cease and desist from the activity giving rise to the creation of the nuisance.

(1) Actual notice of the existence of the nuisance may be given to a person involved in or responsible for such nuisance from the City Attorney on the basis of information lawfully gathered and supplied to him by the Police Department, Mayor, or citizens.

(a) The notice, as herein required, shall be in writing and delivered by first class U.S. Mail or in person to the alleged offender, the occupant or owner at the address of the property, if it is a dwelling, and to the last-known address of the owner as reflected in the tax rolls of the city, the township or the county.

(b) The notice shall state:

1. That in the opinion of the Mayor, City Council, or City Attorney the condition of the property or the nature of the activity engaged in falls within the prohibitions of this chapter.

2. That if such activity does not cease within ten days the city will take appropriate action to abate the nuisance.

3. That the owner may request within 10 days of actual notice of the nuisance to appear before the City Council to be heard on the question of the nuisance.

4. That a declaratory judgment proceeding as provided by law is available if a person engaged in the challenged activity wishes to initiate the legal determination of whether the activity is in fact a nuisance.

(B) Upon the failure of the owner or occupant to cause the abatement of the nuisance, as required by this section, and if the owner declines the opportunity to appear before City Council regarding the nuisance, the City Council or Mayor may:

(1) Proceed at once to cause to be abated the nuisance and charge the cost thereof against the owner and/or occupant of the property;

(2) Apply to the City Attorney to institute a legal proceeding against the real estate upon which the nuisance exists; or

(3) Apply to the City Attorney for an application for attachment against any material which is alleged to be obscene in a sworn affidavit. Upon filing of an application for attachment authorized in division (B) of this section, the Chief of Police shall immediately cause notice thereof to be served either personally or by mail upon any person residing or doing business in the city who is known or believed by the Chief of Police to have any of the following interests in material named in the complaint:

(a) The publisher,

(b) The wholesaler, distributor, circulator, and

(c) Every retailer or dealer who has, or might have, possession of any material identical to material named in the complaint.

(4) Request the City Attorney to seek a temporary restraining order in Superior or Circuit Court in order to enjoin any nuisance, obscene performance, or the service of patrons in violation of this chapter.

If the city has given written notice pursuant to division (A) above, it may after the passage of ten judicial days, seek such a temporary restraining order.

(C) The Mayor, City Council, or its designee shall recover any duly expended funds for its services in causing the abatement of the nuisance, including but not limited to compensation for services by city employees, use of equipment, police overtime and attorney's fees.

(D) The Mayor, City Council, or its designee shall, upon completion of all acts necessary to abate the nuisance, send a statement to the owner and/or occupant of the property notifying the owner and/or occupant of the fees, charges, and penalties owing to the city for its services as defined in division (C) above. Upon the failure of the parties to pay the fees and charges within 30 days, the Mayor, City Council, or its designee may refer the charges and fees to the City Attorney, who shall forthwith collect the fees and charges by civil process or by obtaining a lien for the amount owed.

(E) Proceedings authorized by this section shall be in addition to any others provided by law.

ADOPTED AND PASSED BY THE BY THE COMMON COUNCIL OF THE CITY OF RISING SUN, INDIANA THIS 3rd DAY OF OCTOBER, 2013.

"NAY"

Steve Slack

"AYE"




Steve Slack

Dennis Radcliff


Dennis Radcliff

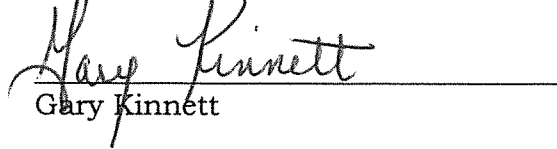
Mike Padgett


Mike Padgett

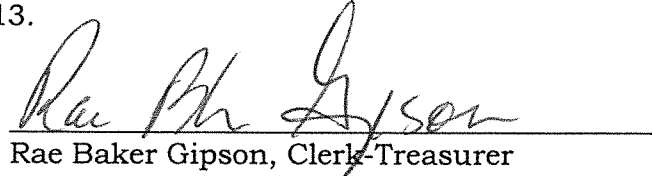
Jim McDaniel


Jim McDaniel

Gary Kinnett


Gary Kinnett

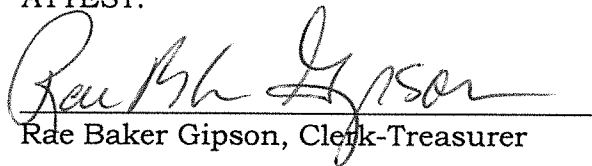
Presented by me to the Mayor of the City of Rising Sun, Indiana, for his approval and signature this 3 day of October, 2013.


Rae Baker Gipson, Clerk-Treasurer

This Ordinance duly approved and signed by me on this 3 day of October, 2013.


Branden Roeder, Mayor

ATTEST:


Rae Baker Gipson, Clerk-Treasurer