

**AN ORDINANCE ADDING CHAPTER
103: CHRONIC PROBLEM
PROPERTY REGULATIONS TO THE
CITY OF FORT WAYNE, INDIANA,
CODE OF ORDINANCES**

WHEREAS, Properties where illegal activity occurs on a regular basis have adverse effects on health, safety, welfare, and quality of life of residents of the City of Fort Wayne's neighborhoods; and

WHEREAS, Some persons that own or control such properties in the City allow their properties to be used for illegal activity, with the result that these properties have become chronic problem properties in the neighborhoods throughout the City; and

WHEREAS, The current provisions of the City's ordinances do not provide an adequate tool for abating such chronic problem properties; and

WHEREAS, The City, through its public safety departments and with the assistance of other City departments, is in a unique position to gather data on such properties and establish an active remediation plan to address the specific problems posed by specific properties; and

WHEREAS, Chronic problem properties within the City cause a financial burden upon the City by the numerous calls for service to the properties because of the illegal and/or nuisance activities that repeatedly occur or exist on such properties.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

SECTION 1. That Chapter 103: CHRONIC PROBLEM PROPERTY REGULATIONS is added to the City of Fort Wayne, Indiana, Code of Ordinances, follows:

1 **CHAPTER 103: CHRONIC PROBLEM PROPERTY REGULATION**

2

3 103.01 Intent

4 103.02 Definitions

5 103.03 Violations; notification and limited appeals of being designated

6 by city as a chronic problem property

7 103.04 Remediation agreements—Proactive measures to reduce time

8 designated as a chronic problem property

9 103.05 Repeat nuisance service call fees for chronic problem

10 properties; notice

11 103.06 Intimidation and threats by property owner prohibited

12 103.99 Penalties; civil action by law department/dedication of portion

13 fees/fines to the Law Enforcement Training Fund #153

14

15 **§ 103.01 INTENT**

16 (A) The Common Council finds that excessive calls for service to problem

17 areas, trouble spots, or high-activity areas, place an undue burden on

18 public safety resources, which may result in decreased public safety

19 services being provided to other geographic areas of the City of Fort

20 Wayne, Indiana.

21 (B) The regulations set forth in this Chapter are designed to protect the

22 overall public health, safety and welfare of the City. They are further

23 designed to help prevent and assist in abating repeat calls for service

24 to the same property or location, which may result in diminished public

25 safety services being provided to other residents and areas of the

26 City. Repeat nuisance service call fees are authorized to be imposed

27 and collected from the owner of the property designated as a chronic

28 problem property. Such fees are intended to help cover costs incurred

1 by the City which are over and above the cost of providing services to
2 properties not so designated.

3
4 **§ 103.02 DEFINITIONS**

5 For the purpose of this Chapter, the following definitions shall apply unless
6 the context clearly indicates or requires a different meaning.

7 **Abate** shall mean to remedy a condition which constitutes a violation of this
8 Chapter which is necessary and in the interest of the general health, safety,
9 and welfare of the City.

10 **Chronic Problem Property** is a property which meets the following criteria:

- 11 1. Has had not less than five (5) valid complaints in sixty (60)
12 calendar days for any criminal offense governed in Indiana Code
13 Title 35, and/or ordinance citations being issued for a violation of
14 the Fort Wayne City Code which occurred on the property and
15 resulted in a police response and police documented call for
16 service; or
- 17 2. Has had not less than five (5) letters/orders issued by the Fort
18 Wayne Fire Department, Fort Wayne-Allen County Department of
19 Health, Neighborhood Code Enforcement Department, Animal
20 Care & Control, and/or the City of Fort Wayne Law Department in
21 sixty (60) calendar days which sought compliance by the property
owner with sections(s) of the Fort Wayne City Code; or
- 22 3. A combination of valid complaints and/or ordinance citations
23 issued by a sworn member of the Fort Wayne Police Department,
24 and/or has been issued letters by the Fort Wayne Fire
25 Department, Fort Wayne-Allen County Department of Health,
26 Neighborhood Code Enforcement Department, Animal Care &
27 Control, and/or the City of Fort Wayne Law Department, which

1 together total not less than five (5) in number issued in a sixty
2 (60) calendar day period.

3
4 However, in the event that a property consists of more than fifty (50)
5 dwelling units which are rented or intended to be rented and are
6 located on a single parcel or lot for which a postal address exists or
7 may exist for each individual unit including residential rental properties,
8 hotels, motels or other similar properties offering overnight lodging, any
9 business establishment required to have a license or permit to sell
10 alcoholic beverages under Indiana Code Title 7.1, such addresses for a
11 property shall not be considered as a chronic problem property until it
12 has been issued more than twelve (12) verified complaints, ordinance
13 citations, letters/orders seeking compliance involving nuisance activity,
14 as further addressed in the above paragraphs 1 through 3 herein, in
any ninety (90) day period.

15 If a property is zoned commercial or industrial as defined in Chapter
16 157 of the Fort Wayne Zoning Ordinance, the provisions of the above
17 paragraphs 1, 2, and 3 of this definition are the criteria for a chronic
18 problem property.

19
20 **Citation** shall mean an act which is prohibited or an offense which is
21 punishable under the Fort Wayne City Code for which a written ordinance
22 violation citation was issued by the Fort Wayne Police Department, Fort
23 Wayne Fire Department, Neighborhood Code Enforcement Department, or
24 Animal Care & Control.

25 **City** means the City of Fort Wayne, Indiana.
26
27
28

Police documented call for service shall mean when a sworn member of the Fort Wayne Police Department is dispatched or deployed to respond to an incident at a specific location as a police response.

Police Response shall mean any and all police action needed to protect the health, safety and welfare of inhabitants of a property or location where valid complaint(s) have been documented, with such police response being subject to the governing rules and regulations of the Fort Wayne Police Department.

Valid complaint shall refer to a police documented call for service that an incident took place at a specific property requiring sworn police personnel to be dispatched or caused to respond. The term does not include incidents involving an occupant of the premises as the victim of the crime.

Warning notice shall be a written document sent by the Fort Wayne Police Department to any property owner who has received three (3) citations and /or valid complaints from City warning said owner, and the manager/operator who is doing business at that location that upon receiving five (5) such citations and/or valid complaints in a sixty (60) day period that their property would be deemed a chronic problem property.

**§ 103.03 VIOLATIONS; NOTIFICATION AND LIMITED APPEALS OF
BEING DESIGNATED BY THE CITY AS A CHRONIC PROBLEM
PROPERTY**

(A) The owner of any property within the City which is designated by the City as a chronic problem property, as defined in Section 103.02 is in violation of this Chapter. The property owner of any designated chronic problem property shall be responsible for bringing such

1 property into compliance with all governing regulations. However, in
2 the event that such chronic problem property is zoned as commercial
3 or industrial as defined in Chapter 157 of the Fort Wayne City Code,
4 the manager/owner/operator who is doing business at that location
5 are jointly and severally responsible for bringing such property into
6 compliance with all governing regulations.

7
8 (B) The Fort Wayne Police Department shall send a warning notice letter
9 to any property owner, and in the case of the property being zoned
10 commercial or industrial, to the manager/owner/operator who is doing
11 business at the location, when the property address has been subject
12 to three (3) verified complaints and/or ordinance citations and /or
13 letters/orders issued by the Fort Wayne Police Department, Fort
14 Wayne Fire Department, Fort Wayne-Allen County Department of
15 Health, Neighborhood Code Enforcement Department, Animal Care
16 & Control, and/or the City of Fort Wayne Law Department advising
17 said person that when the City verifies that said number increases to
18 the thresholds in the definition of a chronic problem property, it shall
19 be so designated. The Fort Wayne Police Department, the
20 Neighborhood Code Enforcement Department and the Law
21 Department shall update their data on a regular and consistent basis
22 and electronically transmit it to the assigned police officer(s) of the
23 Fort Wayne Police Department whose responsibilities include
24 overseeing the warning notice letter process.

25 (C) When designating a specific property as a chronic property, the
26 assigned police officer(s) in the Fort Wayne Police Department, shall
27 review and verify:

- 28 1. The number of police documented calls for service,
29 the number of verified complaints and ordinance
30

1 citations issued by the Fort Wayne Police
2 Department to a property address in the applicable
3 sixty (60) or ninety (90) day period; and
4

- 5 2. The number of ordinance citations and/or compliance
6 letters/orders sent by the Fort Wayne Fire
7 Department, Fort Wayne-Allen County Department of
8 Health, Neighborhood Code Enforcement
9 Department, Animal Care & Control, and/or the City
10 of Fort Wayne Law Department and the number of
11 compliance letters sent by the Fort Wayne Police
12 Department and the Law Department to a property
13 address in the applicable sixty (60) days or ninety
14 (90) day period.

15 Once designated as a chronic problem property by the assigned police
16 officer(s) in the Fort Wayne Police Department, said property shall remain so
17 designated and tracked on a computerized matrix for
18 compliance/enforcement purposes for one (1) year from the date of
19 designation. Said designation shall only be removed upon action by the City
20 of Fort Wayne Law Department after reviewing documentation from the Fort
21 Wayne Fire Department, Fort Wayne-Allen County Department of Health,
22 Neighborhood Code Enforcement Department, Animal Care & Control,
23 and/or the City of Fort Wayne Law Department confirming that the subject
24 property has not been the subject of a verified complaint or code violation for
25 a period of not less than three hundred sixty-five (365) continuous days,
26 unless credited per the regulations set forth in Section 103.04. Additionally,
27 any and all fines and repeat nuisance service call fees associated with the
28 designated chronic problem property must have been paid in full for removal
29 from the matrix.
30

1
2 (D)The Fort Wayne Police Department shall notify in writing to the
3 property owner, and in the case of the property being zoned
4 commercial or industrial to the manager/owner/operator who is doing
5 business at that location, that his/her property location has been
6 designated as a chronic problem property. Said notification shall be
7 delivered in person by an individual designated by the City by leaving
8 a copy of the notification personally to the person to be notified, by
9 leaving a copy of the notification as set forth below, with such
10 notification being documented by the City in their records; or by
11 sending the notice to the property owner, and in the case of the
12 property being zoned commercial or industrial, to the
13 manager/owner/operator who is doing business at that location, by
14 priority mail which is tracked online with the City tracking the date
15 said notification was delivered. The notification shall be sent to the
16 property owner's residence or usual place of business, or in the case
17 of the property being zoned commercial or industrial, to the
18 manager/owner/operator who is doing business at that location which
19 is on record in the Assessor's office or any other public office. This
20 notification shall identify:

- 21 1. The property owner, and in the case of the property
22 being zoned commercial or industrial, to the
23 manager/owner/operator who is doing business at
24 that location, and list the specific address that has
25 been designated as a chronic problem property;
- 26 2. The number of police documented calls for service
27 involving verified complaints, the number of
28 ordinance citations issued, the number of
29 letters/orders issued by the Fort Wayne Fire
30

1 Department, Fort Wayne-Allen County Department of
2 Health, Neighborhood Code Enforcement
3 Department, Animal Care & Control, and/or the City
4 of Fort Wayne Law Department or any combination
5 thereof which have occurred on said property in the
6 applicable sixty (60) or ninety (90) calendar day
7 period:

- 8 3. The cost(s) which may be incurred if there are any
9 future verified police documented calls for service to
10 the property;
- 11 4. The cost(s) which may be incurred for any future
12 background investigations and/or issuance of
13 letter(s)/orders by the Fort Wayne Fire Department,
14 Fort Wayne-Allen County Department of Health,
15 Neighborhood Code Enforcement Department,
16 Animal Care & Control, and/or the City of Fort Wayne
17 Law Department;
- 18 5. The individual and his/her city contact information
19 including the name, position, mailing address,
20 telephone & fax numbers and email address to whom
21 the property owner and in the case of the property
22 being zoned commercial or industrial, to the
23 manager/owner/operator who is doing business at
24 that location designated as a chronic problem
25 property may contact if he/she has questions
26 regarding the notification; and
27
28
29
30

6. The time period which the designation as a chronic problem property will last and the terms and conditions which must be met for the removal of such designation.

(E) Copies of the written notice sent by the Fort Wayne Police Department on each proper address designated as a chronic problem property shall be simultaneously sent electronically to the Fort Wayne Fire Department, Fort Wayne-Allen County Department of Health, Neighborhood Code Enforcement Department, Animal Care & Control, the City of Fort Wayne Law Department, Office of the City Clerk, and the Common Council Member who represents the District where the subject property is located.

(F) The City deems the owner of the property and the residential occupants of the property, and in the case of the property being zoned commercial or industrial, to the manager/owner/operator who is doing business at that location responsible for any and all prohibited conduct occurring upon the premises after receipt of the written notice designating the property as a chronic problem property.

(G) A Hearing Officer designated by Neighborhood Code is authorized to hear limited appeals from owners of a property, and in the case of the property being zoned commercial, to the manager/owner/operator who is doing business at that location who have been designated by the City as a chronic problem property. Said appeal shall be limited to the verification of whether said person has reached the requisite and applicable number set forth in Section 103.02 to be designated as a chronic problem property. A hearing before the Hearing Officer for such limited appeals must be held within thirty (30) calendar days of the appeals being filed. Written

1 notice of the date, time and location shall be mailed or personally
2 delivered by the City to said person of record. The decision of the
3 Hearing Officer shall be the final administrative action for purpose of
4 judicial review.

5
6 **§ 103.04 REMEDIATION AGREEMENTS—PROACTIVE MEASURES TO**
7 **REDUCE TIME DESIGNATED AS A CHRONIC PROBLEM PROPERTY**

8 (A) In the event that a property consists of more than fifty (50) dwelling
9 units which are rented or intended to be rented and are located on a
10 single parcel or lot for which a postal address exists or may exist for
11 each individual unit including residential rental properties, hotels,
12 motels, or other similar properties offering overnight lodging; or if a
13 property is a business establishment required to have a license or
14 permit to sell alcoholic beverages under Indiana Code Title 7.1, and
15 has been designated as a chronic problem property, the owner of
16 such property shall be required to enter into a Remediation
17 Agreement. Such Remediation Agreement shall:

- 18 1. Be in writing and signed by the owner or the owner's duly
19 authorized agent of the property designated as a chronic
20 problem property and the Fort Wayne Police Department's
21 sworn police officer(s) assigned to oversee said property's
22 compliance measures;
- 23 2. Set forth immediate remedial measures which must be
24 implemented within fourteen (14) days of signing the
25 Remediation Agreement, which establishes thereafter
26 monthly thresholds and needed corrective actions which will
27 be monitored by the Fort Wayne Police Department's sworn
28 police officer(s) who were assigned to negotiate the

1 Remediation Agreement with the owner of the subject
2 property or the property's duly authorized agent;

3
4 3. Remediation Agreements shall also include but not be
5 limited to including policy reforms, additional staff, additional
6 training, and other proactive measures determined
7 necessary to abate the public health, safety and welfare
8 violations identified; and

9
10 4. Identify specific action plan(s) whereby the owner or his/her
11 duly authorized agent is required to complete by the last
12 Friday of each month and transmit to the Fort Wayne Police
13 Department's assigned sworn police officer(s) who shall
14 evaluate compliance. All remediation agreements shall be
15 for a term of not less than six (6) months.

16 (B) Copies of all Remediation Agreements entered into shall be
17 electronically sent by the assigned sworn police officer to the Chief of
18 Police, the Fort Wayne Fire Department, the Fort Wayne-Allen County
19 Department of Health, Neighborhood Code Enforcement Department,
20 Animal Care & Control, and/or the City of Fort Wayne Law Department
21 and the Common Council Member who represents the District in
22 which the chronic problem property is located, and the Office of the
23 City Clerk, with such electronic correspondence taking place the same
24 day that the Remediation Agreement is signed by both parties.

25 (C) In the event that the owner, or the owner's duly authorized agent fails
26 or refuses to enter into a Remediation Agreement, or if the owner or
27 owner's duly authorized agent fails to meet the obligations set forth in
28 the Remediation Agreement, the Law Department, or his or her official
29 designee, shall commence legal action pursuant to Section 103.99 of
30

1 the Fort Wayne City Code as soon as practicable. Notice of non-
2 compliance shall be electronically sent by the Law Department to the
3 Chief of Police, the Fort Wayne Fire Department, the Fort Wayne-
4 Allen County Department of Health, Neighborhood Code Enforcement
5 Department, Animal Care & Control, and the Common Council
6 Member who represents the District in which the chronic problem is
7 located, and the Office of the City Clerk of his/her action to commence
8 such legal action as soon as practicable, upon being notified by the
9 sworn police officer assigned to the case.

10 (D) So long as the owner or the owner's duly authorized agent is in
11 compliance with the Remediation Agreement, no additional action by
12 the Law Department is to be commenced on the items addressed in
13 said Agreement. However, any new violation(s) which are in addition
14 to the items addressed in the Remediation Agreement may be
15 pursued by the Law Department.

16 (E) In the event that the owner or the owner's duly authorized agent
17 complies with the Remediation Agreement in its entirety and if the
18 property has no new ordinance citations issued against it and no new
19 valid complaints for a period of thirty (30) consecutive calendar days,
20 fifteen (15) days shall be subtracted from the time said property has
21 been designated as a chronic problem property; with this process
22 continuing through the duration of the Remediation Agreement. The
23 Fort Wayne Police Department shall be charged with maintaining
24 accurate records and sending monthly updates to the individuals listed
25 in paragraph (B) herein.

26 (F) In the event that a property is zoned commercial or industrial and has
27 been designated as a chronic problem property, the
28 manager/owner/operator who is doing business at that location shall
29
30

1 be required to enter into a Remediation Agreement consistent with the
2 provisions of this Section.
3

4 **§ 103.05 REPEAT NUISANCE SERVICE CALL FEES FOR CHRONIC**
5 **PROBLEM PROPERTIES; NOTICE**

6 The property owner shall incur repeat nuisance service call fees for a
7 property designated by the Fort Wayne Police Department as a chronic
8 problem property if the property owner has first been provided written notice
9 of that designation. All fees are due and payable within thirty (30) days of the
10 date of such notice.

11 **§ 103.06 INTIMIDATION AND THREATS BY PROPERTY OWNER**
12 **PROHIBITED**

13 If any person reports to a City employee or agent that he or she believes that
14 he/she has been intimidated or threatened by the owner or owner's agent,
15 manager or operator of a business doing business in the city, if he or she
16 files a complaint or reports an alleged violation of this Chapter, the City
17 employee or agent shall encourage the person to report such alleged
18 intimidation or threat to the Fort Wayne Police Department for further action.
19

20 **§ 103.99 PENALTIES; CIVIL ACTION BY LAW**
21 **DEPARTMENT/DEDICATION OF PORTION OF FEES/FINES TO THE LAW**
22 **ENFORCMENT ENFORCEMENT TRAINING FUND #153**

23 (A) Any property owner violating the provisions of this Chapter shall be
24 subject to the following penalties:

- 25 1. *Collection of Repeat Nuisance Service Call Fees:* In
26 addition to the collection of fines resulting from the
27 issuance of citation(s), the Law Department is
28

1 authorized to bring civil action against any alleged
2 violator of this Chapter for all unpaid repeat nuisance
3 service call fees.

4
5 2. *Citations:* After a property has been designated as a
6 chronic problem property, the next citation issued
7 shall impose a fine of two hundred fifty dollars
8 (\$250.00) in addition to any other penalty imposed by
9 ordinance and shall be payable through the City
10 Clerk's Office.

11 3. *Repeat Offenders:* If a property has been designated
12 as a chronic problem property for the second time
13 within a twelve (12) month period, then the next
14 citation issued shall impose a civil penalty of five
15 hundred (\$500.00) for each and every citation issued
16 thereafter. If a property has been designated as a
17 chronic problem property for more than two (2) times
18 within a twenty-four (24) month period, then the next
19 citation issued shall impose a civil penalty of seven
20 hundred fifty (\$750) and for each and every citation
21 issued thereafter.

22 (B) Whoever violates any provision of this chapter, where no other
23 penalty is not otherwise provided, shall be adjudged to pay a fine
24 of not more than \$2,500. Each violation of this Chapter shall be
25 deemed a separate offense.

26 (C) *Dedication of Fines/Fees Collection:* Fifty percent (50%) of all fines
27 and fees collected for any violation of this Chapter shall be
28 deposited into the Law Enforcement Training Fund #153.
29
30

1
2
3 **SECTION 3.** That this Ordinance shall be in full force and effect from
4 and after its passage and any and all necessary approval by the Mayor.
5

6 _____
7 Council Member

8 APPROVED AS TO FORM AND LEGALITY

9 _____
10 Carol Helton, City Attorney
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

EXECUTIVE SUMMARY

Problem

Public safety across the country is experiencing increased calls for service without additional personnel. Public safety must become more efficient in order to address community concerns as this increase in call volume adversely affects the health, safety, and welfare of our community. The resources utilized toward properties with repeat calls for service is staggering. Below is a 6 month snapshot (January 1, 2016 – June 30, 2016) of **only 4** commercial properties located around a major corridor of the City in regards to police calls for service:

- Relax Inn – 3527 W. Coliseum Blvd. - 222 calls for service
- Economy Inn – 3340 W. Coliseum Blvd. - 316 calls for service
- Travel Inn – 2712 W. Coliseum Blvd. - 141 calls for service
- Country Hearth Inn – 2908 Goshen Rd. - 55 calls for service

This equates to 90+ hours **per** officer (most times 2-4 officers needed) and approximately \$3,456 **per** officer in expenses to include equipment and wages.¹ This is not a quadrant problem; this is a City-wide problem. Every quadrant in the City has problem properties that require an excessive amount of public safety resources due to nuisance calls for service that are otherwise taken from the rest of the City. Other examples of commercial properties encompassing **ALL 6** of the quadrants with excessive nuisance calls include:

- Coliseum Inn
- Best Way Inn
- Pierres
- Both Shangri-La locations
- Sports & Spirits
- Fosters Sports Bar
- Hallmark Inn

The image of Fort Wayne is an additional concern. A simple internet search of any one of the above mentioned properties demonstrates a myriad of harshly negative customer reviews warning visitors of the problems associated with these properties. In fact, the photo image for the Economy Inn shows two squad cars parked in front of the hotel. Obviously, this is not the image we wish to portray of our City.

Proposal

The Chronic Problem Property (“CPP”) ordinance is designed to address repeat nuisance calls for service on problem properties. Once a property has been designated a CPP, certain terms and conditions are imposed on the owner to reduce or eliminate current and future problems.

¹ According to the Fiscal Affairs Manager of the Fort Wayne Police Department assessed at \$.64 a minute.

Solution

A member of the Fort Wayne Police Department will be designated as the enforcing officer and point of contact throughout the entire process. The officer will work closely with the City Attorney, Neighborhood Code, Fire Department, Animal Care and Control, Department of Health, and the council person whose district is affected by the designated CPP. In addition, the officer will work with property owners through a remediation agreement. The remediation agreement is a collaborative effort between property owners and the City that implement proactive strategies towards reducing nuisance calls while holding property owners accountable.

The ordinance is broken down into 2 categories, residential and commercial. If there are 5 or more valid complaints or citations in a 60 day period for residential properties, the property will be designated a CPP. Likewise, if there are 12 or more valid complaints or citations in a 90 day period for commercial properties, the property will be designated a CPP. The officer will issue warnings to property owners when they are close to reaching the threshold. Once designated a CPP, the property will be listed as such for 365 days unless credited for compliance with proactive measures taken through the remediation agreement.

If the owner fails or refuses to abide by the remediation agreement, notice of non-compliance will be made to the owner and penalties will be imposed for every subsequent complaint or citation. Penalties imposed include: \$250 per citation/complaint; \$500 for properties designated a CPP twice in a 12 month period; and, \$750 for properties designated a CPP more than twice in a 24 month period.

Expectation

- Educate the public
- Community collaboration
- Accountability
- Reduced calls for service
- Reallocate valuable resources to other needs of the City
- Reduce costs associated with nuisance calls
- Promote a satisfying public image

Conclusion

This ordinance is **NOT** designed to be punitive. Rather, the CPP ordinance is designed to encourage property owners to collaborate with the City to abate community issues stemming from their properties. This will be an excellent tool and innovative approach for the City to address a serious concern that is suffocating the City's resources.