

**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 community; 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, as follows:

CHAPTER 103: CHRONIC PROBLEM PROPERTY REGULATION

[103.01](#) Intent

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§ 103.01 INTENT

(A) The Common Council finds that excessive calls for service to problem areas, trouble spots or high-activity areas place an undue burden on public safety resources, which may result in decreased public safety services being provided to other geographic areas of the City of Fort Wayne, Indiana.

(B) The regulations set forth in this Chapter are designed to protect the overall public health, safety and welfare of the City. They are further designed to help prevent and assist in abating repeat calls for service to the same property or location, which may result in

diminished public safety services being provided to other residents and areas of the City. Repeat nuisance service call fees are authorized to be imposed and collected from the owner, residential lessor, tenant, occupant and/or operator of the property designated as a Chronic Problem Property. Such fees are intended to help cover costs incurred by the City which are over and above the cost of providing services to properties not so designated.

§ 103.02 DEFINITIONS

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

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

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

(A) Residential Properties:

1. Has had five (5) or more valid complaints in sixty (60) calendar days for any criminal offense governed in Indiana Code Title 35 and/or ordinance citations being issued for a violation of the Fort Wayne City Code which occurred on the property and resulted in a police response and police documented call for service; or
2. Has had five (5) or more letter/order citations issued by the Fort Wayne Fire Department, Fort Wayne-Allen County Department of Health, Neighborhood Code Enforcement Department, Animal Care & Control and/or the City of Fort Wayne Law Department in sixty (60) calendar days which sought compliance by the property owner with sections(s) of the Fort Wayne City Code; or
3. A combination of valid complaints and/or ordinance citations issued by a sworn member of the Fort Wayne Police Department and/or has been issued letters by the Fort Wayne Fire Department, Fort Wayne-Allen County Department of Health,

Neighborhood Code Enforcement Department, Animal Care & Control and/or the City of Fort Wayne Law Department, which together total five (5) or more in number issued in a sixty (60) calendar day period.

(B) Commercial Properties: A commercial business property shall not be considered as a Chronic Problem Property until it has been issued twelve (12) or more valid complaints, ordinance citations and/or letters/orders seeking compliance involving nuisance and/or criminal activity, as further addressed in the above paragraphs one (1) through three (3) in any ninety (90) day period.

(C) Multiple valid complaints and/or letters/orders issued under one (1) incident shall only count once towards designation as a Chronic Problem Property.

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

City means the City of Fort Wayne, Indiana.

Commercial business property shall mean a property zoned commercial or industrial pursuant to Chapter 157 of the Fort Wayne City Code, but shall exclude all portions of such property used for residential purposes.

Compliance Officer(s) shall mean the Fort Wayne Police Department's sworn police officer(s) assigned to oversee the administration and implementation of this Chapter in accordance with departmental Standard Operating Procedures.

Occupant shall mean any individual, living, sleeping, cooking or eating in or having possession of a dwelling unit, structure or premises.

Operator shall mean any person who has charge, care or control of a commercial business property. The term shall not include a residential lessor.

Owner shall mean any person, agent, firm, operator or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including a receiver, trustee, conservator or the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court. The term shall not include a residential lessor.

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 complaints have been documented, with such police response being subject to the governing rules and regulations of the Fort Wayne Police Department.

Property shall mean any home, condominium, apartment, residential rental unit or commercial business property.

Residential lessor shall mean any person, partnership, corporation, limited liability company, or other entity that owns, operates, or manages one or more residential rental units on property that is zoned single family residential, two family residential, or multiple family residential and on which one or more residential rental units are offered for lease or rent.

Tenant shall mean an individual who occupies a rental unit for residential or commercial purposes with the landlord's consent and for consideration agreed upon by both parties.

Valid complaint shall refer to a police documented call for service that any criminal offense governed in Indiana Code Title 35 and/or ordinance citations being issued for a violation of the Fort Wayne City Code which occurred on the property and resulted in a police response and police documented call for service that 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 who is the victim of the crime, to include, but not limited to, victims of domestic violence, stalking, sexual abuse and/or persons with mental or physical disabilities pursuant to all applicable local, state and federal laws.

Warning notification shall be a written document sent by the Fort Wayne Police Department to any property owner, residential lessor, tenant, occupant and/or operator who has received three (3) valid complaints, ordinance citations and/or letters/orders under this Chapter.

§ 103.03 WARNING NOTIFICATION PROCESS

The Fort Wayne Police Department shall issue a warning notification to the property owner, residential lessor, tenant, occupant and/or operator advising said person(s) to contact the Compliance Officer to begin the process of working with the Fort Wayne Police Department to abate nuisances and avoid designation as a Chronic Problem Property. Such warning notification shall be sent within seven (7) days after said person(s) has received the third valid complaint, ordinance citation and/or letter/order, and be delivered by the following methods: (1) leaving a copy of the notification at the residence or place of business, followed by sending through first class United States mail; or (2) certified mail, return receipt requested. In the case of a commercial or residential rental property, a copy of the warning notification shall be sent to the owner or residential lessor by personal service, electronically or by first class United States mail.

**§ 103.04 REVIEW FOR DESIGNATION OF CHRONIC PROBLEM PROPERTY;
DESIGNATION OF CHRONIC PROBLEM PROPERTY**

(A) When reviewing documentation to designate a Chronic Problem Property, the Compliance Officer shall review and verify:

1. The number of police documented calls for service, the number of valid complaints and ordinance citations issued by the Fort Wayne Police Department to a property address in the applicable sixty (60) or ninety (90) day period; and
2. The number of ordinance citations and/or compliance letters/orders issued by the Fort Wayne Fire Department, Fort Wayne-AlLEN County Department of Health, Neighborhood Code Enforcement Department, Animal Care & Control and/or the City of Fort Wayne Law Department to a property address in the applicable sixty (60) days or ninety (90) day period.

(B) The Fort Wayne Police Department shall notify in writing the property owner, residential lessor, tenant, occupant and/or operator that his/her property has been designated as a Chronic Problem Property. Said notification shall be delivered by the following methods: (1) leaving a copy of the notification at the residence or place of business, followed by sending notice through first class United States mail; or (2) sending notification to the property owner, residential lessor, tenant, occupant and/or operator by certified mail, return receipt requested. This notification shall identify:

1. The owner, residential lessor, tenant, occupant and/or operator and the specific address that has been designated as a Chronic Problem Property;
2. The number of police documented calls for service involving valid complaints, the number of ordinance citations issued, the number of letters/orders which have occurred on said property in the applicable sixty (60) or ninety (90) calendar day period;
3. The cost(s) which may be incurred if there are any future valid police documented calls for service to the property;
4. The cost(s) which may be incurred for any future background investigations and/or issuance of letter(s)/orders;
5. The individual and his/her city contact information including the name, position, mailing address, telephone & fax numbers and email address to whom the property owner, residential lessor, tenant, occupant and/or operator may contact if he/she has questions regarding the notification; and

6. The time period which the Chronic Problem Property designation will last and the terms and conditions which must be met for the removal of such designation.

(C) Copies of the written designation sent shall be simultaneously sent electronically to the Fort Wayne Fire Department, Fort Wayne-Alen County Department of Health, Neighborhood Code Enforcement Department, Animal Care & Control, 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. In the case of a commercial or residential rental property, a copy of the written designation shall be sent to the owner or residential lessor.

(D) Once designated as a Chronic Problem Property by the Compliance Officer, said property shall remain so designated and tracked on a computerized matrix for compliance/enforcement purposes for one (1) year from the date of designation. Said designation shall be removed upon action by the City of Fort Wayne Law Department after reviewing documentation from the Fort Wayne Fire Department, Fort Wayne-Alen County Department of Health, Neighborhood Code Enforcement Department, Animal Care & Control and/or the City of Fort Wayne Law Department confirming that a transfer of said property occurred or has not been the subject of a valid complaint or code violation for a period of not less than three hundred sixty-five (365) continuous days, unless credited per the regulations set forth in Section 103.05. Additionally, any and all fines and repeat nuisance service call fees associated with said Chronic Problem Property must have been paid in full for removal from the matrix.

(E) The City deems the owner, residential lessor, tenant, occupant and/or operator 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.

**§ 103.05 REMEDIATION AGREEMENTS; PROACTIVE MEASURES TO REDUCE TIME
DESIGNATED AS A CHRONIC PROBLEM PROPERTY**

(A) The owner, residential lessor, tenant, occupant and/or operator of a Chronic Problem Property shall be required to enter into a Remediation Agreement. Such Remediation Agreement shall:

1. Be in writing and signed by the owner, residential lessor, tenant, occupant and/or operator of the property designated as a Chronic Problem Property and the Compliance Officer;
2. Set forth immediate remedial measures which must be initiated within fourteen (14) days of signing the Remediation Agreement, and thereafter establish monthly thresholds and needed corrective actions which will be monitored by the Compliance Officer;
3. Include, but not be limited to, policy reforms, additional staff, additional training and other proactive measures determined necessary to abate the public health, safety and welfare violations identified; and

4. Identify specific action plan(s) whereby the owner, residential lessor, tenant, occupant and/or operator are required to complete by the last Friday of each month and transmit to the Compliance Officer.

(B) Copies of all Remediation Agreements entered into shall be electronically sent by the Compliance Officer to the Chief of Police, the Fort Wayne Fire Department, the Fort Wayne-Allen County Department of Health, Neighborhood Code Enforcement Department, Animal Care & Control, the City of Fort Wayne Law Department and the Common Council member who represents the District in which the Chronic Problem Property is located and the Office of the City Clerk within ten (10) days after the Remediation Agreement is signed by both parties. In the case of a residential rental property, the Fort Wayne Police Department shall also send a copy of the Remediation Agreement to the residential lessor, if any, electronically or by first class United States mail.

(C) In the event that the owner, residential lessor, tenant, occupant and/or operator complies with the Remediation Agreement in its entirety and if the property has no new citations issued against it and no new valid complaints for a period of thirty (30) consecutive calendar days, fifteen (15) days shall be subtracted from the time said property has been designated as a Chronic Problem Property; with this process continuing through the duration of the Remediation Agreement. The Fort Wayne Police Department shall be charged with maintaining accurate records and sending monthly updates to the individuals listed in paragraph (B) herein and to allow such records to be available to stakeholders in the community.

(D) In the event that the owner, residential lessor, tenant, occupant and/or operator fails or refuses to enter into a Remediation Agreement, or fails to meet the obligations set forth in the Remediation Agreement, the Law Department or his/her official designee, shall commence legal action pursuant to Section 103.99 of this Chapter. Notice of non-compliance shall be electronically sent by the Law Department to the Chief of Police, the Fort Wayne Fire Department, the Fort Wayne-Allen County Department of Health, Neighborhood Code Enforcement Department, Animal Care & Control, the Common Council Member who represents the District in which the property is located and the Office of the City Clerk. In the case of a residential rental property, the Law Department shall also send a copy of the notice of non-compliance to the residential lessor, if any, electronically or by first class United States mail.

(E) Any new violations which are in addition to the items addressed in the Remediation Agreement may be pursued by the Law Department.

§ 103.06 LIMITED APPEALS OF CHRONIC PROBLEM PROPERTY DESIGNATION

An administrative Hearing Officer designated by Neighborhood Code Enforcement is authorized to hear limited appeals from owners, tenants, occupant and/or operators of properties that have been designated as a Chronic Problem Property. The appeal shall be filed within fifteen (15) calendar days of designation and be limited to the verification of whether said property has reached the requisite and applicable number set forth in Section 103.04. A hearing before the Hearing Officer for such limited appeals must be held within thirty (30) calendar days of the appeals being filed. Written notice of the date, time and location shall be sent certified mail to said person of record. The decision of the Hearing Officer shall be the final administrative action for purpose of judicial review.

§ 103.07 REPEAT NUISANCE SERVICE CALL FEES FOR CHRONIC PROBLEM

PROPERTIES

The property owner, residential lessor, tenant, occupant and/or operator shall incur repeat nuisance service call fees for a property designated as a Chronic Problem Property if said person has first been provided written notice of that designation. All fees are due and payable within thirty (30) days of the date of such notice.

§ 103.08 INTIMIDATION AND RETALIATION PROHIBITED

If any person reports to a City employee or agent that he/she believes that they have been intimidated or threatened by the owner, tenant, occupant or operator of a property in the City due to filing a complaint or reporting an alleged violation of this Chapter, the City employee or agent shall encourage the person to report such alleged intimidation or retaliation to the Fort Wayne Police Department for further action.

§ 103.09 DISCRIMINATION PROHIBITED

Nothing in this Chapter shall be construed to encourage or authorize the discrimination by owners, operators and/or residential lessors against any persons based upon race, creed, religion, sex, age or national origin.

§ 103.10 SUNSET PROVISION

The provisions of Chapter 103 will sunset three (3) years following adoption of this Chapter unless re-ratified by the Common Council.

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

(A) Any property owner, residential lessor, tenant, occupant and/or operator violating the provisions of this Chapter shall be subject to the following penalties:

1. *Collection of Repeat Nuisance Service Call Fees:* In addition to the collection of fines resulting from the issuance of citation(s), the Law Department is authorized to bring civil action against any alleged violator of this Chapter for all unpaid repeat nuisance service call fees.
2. *Citations:* After a property has been designated as a Chronic Problem Property, the next citation issued shall impose a fine of two hundred fifty dollars (\$250) in addition to any other penalty imposed by ordinance and shall be payable through the Office of the City Clerk.
3. *Repeat Offenders:* If a property has been designated as a Chronic Problem Property for the second time within a twelve (12) month period, then the next citation issued shall impose a civil penalty of five hundred dollars (\$500) and for each and every citation issued thereafter. If a property has been designated as a Chronic Problem Property more than two (2) times within a twenty-four (24) month period, the next citation issued shall impose a civil penalty of seven hundred fifty dollars (\$750) and for each and every citation issued thereafter.

(B) Whoever violates any provision of this Chapter, where no other penalty is otherwise provided, shall be adjudged to pay a fine of not more than two thousand and five

hundred dollars (\$2,500). Each violation of this Chapter shall be deemed a separate offense.

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

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

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney