

**AN ORDINANCE ADDING §130.04 DISORDERLY
HOUSES; PROHIBITED TO CHAPTER 130:
OFFENSES AGAINST CITY REGULATIONS TO THE
CITY OF FORT WAYNE, INDIANA, CODE OF
ORDINANCES**

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

SECTION 1. That §130.04 DISORDERLY HOUSES; PROHIBITED is added
to Chapter 130: Offenses Against City Regulations of the City of Fort Wayne, Indiana,
Code of Ordinances, as follows:

** CHAPTER 130: OFFENSES AGAINST CITY
REGULATIONS**

Offenses Against Public Peace and Safety

ADD:

Section

§ 130.04 DISORDERLY HOUSES; PROHIBITED.

(A) *Purpose.* The Common Council of the City of Fort Wayne finds it to be in the best
interests of the residents of the City and the general public to provide for the
regulation of conduct committed by the owner of a property and/or its occupants it
deems to be offensive, to prevent vice and disorder; and to promote public peace,
health and safety, and to this end, the Common Council enacts this section.

(B) *Definitions:* For the purpose of this section, the following definitions shall apply
unless the context clearly indicates or requires a different meaning.

(1) *Disorderly House* means a building, dwelling, establishment, premises or
place where prohibited conduct occurs, including the outside area contiguous

1 to and surrounding the structure such as a yard or lot under the same
2 ownership. If the building, dwelling, establishment, premises or place is a
3 multiple-unit dwelling or residence, hotel or motel, or commercial or office
4 building, this definition applies only to that dwelling unit, room or suite of
5 rooms in the hotel or motel, office rooms or suite, store, lot or yard in or on
6 which prohibited conduct occurs by the owner and/or occupants.

6 (2) *Owner* means:

- 7 a. The recorded owner of the property, as determined by the records of
8 the Allen County Assessor's Office;
- 9 b. Any party with an equitable interest in the property, including a
10 purchaser under a Contract for Conditional Sale of Real Estate
11 commonly known as a Land Contract, which may or may not be
12 recorded; or
- 13 c. The trustee of a land trust, if the land trust holds title to such property.

13 (3) *Occupant* means any person over sixteen (16) years of age whose domicile is
14 the property upon which the prohibited conduct has been found to have
15 occurred.

16 (4) *Prohibited Conduct* means activities occurring in violation of and as defined
17 by Indiana state law or Fort Wayne City Code, which include, but are not
18 limited to conduct related to the following:

- 18 a. Gambling;
- 19 b. Battery;
- 20 c. Contributing to the delinquency of a minor;
- 21 d. Resisting law enforcement;
- 22 e. Disorderly conduct;
- 23 f. Prostitution;
- 24 g. Patronizing a prostitute;

- h. Criminal recklessness;
- i. Discharge of firearms;
- j. Unreasonable noise;
- k. Maintaining a common nuisance;
- l. Racketeering;
- m. Violations of any of the Indiana statutes governing criminal gang activity, intimidation, recruitment;
- n. Violations of any of the Indiana statutes governing the sale, dealing, use, possession and/or manufacturing illicit narcotics or dangerous controlled substances;
- o. Violations of any of the Indiana statutes governing the sale, possession, delivery or receipt of alcoholic beverages.

(C) *Public nuisance.* Whenever Prohibited Conduct as defined in Section B(4) of this Chapter occurs in or upon a building, dwelling, establishment, premises or place, the City may deem the building, dwelling, establishment, premises or place to be a Disorderly House which constitutes a public nuisance.

(D) *Reports, investigations and Notice to Abate*

(1) A complaint or report of suspected Prohibited Conduct committed by the Owner, Occupants, and/or their visitors, guests or invitees as observed by persons residing or working in the vicinity of the property, City officials, and/or representatives of agencies and/or departments of the City, shall be submitted to the Fort Wayne Police Department and each report or complaint shall be individually logged in that office.

(2) Upon receipt of any report or complaint of such suspected illegal activities on the premises, including the outside area contiguous to and surrounding the structure such as a yard or lot under the same ownership, the Fort Wayne Police Department may conduct a further investigation.

1 (3) Upon completion of investigation by the Fort Wayne Police Department
2 revealing a reasonable belief that such suspected Prohibited Conduct has
3 occurred in or upon a building, dwelling, establishment, premises or place,
4 the City shall notify the Owner of the property by sending a Notice of Abate
5 that the building, dwelling, establishment, premises or place is a Disorderly
6 House and constitutes a public nuisance and the Owner shall terminate the
7 public nuisance.

8 (4) The City deems the Owner and Occupants of the property responsible for any
9 and all Prohibited Conduct occurring upon the premises after receipt of the
10 Notice to Abate.

11 (E) *Manner of serving Notice to Abate.* The Notice to Abate shall be provided to the
12 Owner and Occupants in the following manner:

13 (1) Sending a copy of the Notice to Abate by registered or certified mail to the
14 residence, or certified to the residence or place of business or employment
15 of the person to be notified, with return receipt requested;

16 (2) Delivering a copy of the Notice to Abate personally to the person to be
17 notified; or

18 (3) Leaving a copy of the Notice to Abate at the dwelling or usual place of
19 abode of the person to be notified.

20 (F) *Exception.* This Chapter does not apply when contact with law enforcement is
21 made by or on behalf of a victim or potential victim of abuse; a victim or potential
22 victim of a crime; or an individual in an emergency.

23 (G) *Penalty, injunctive relief.* Whenever Prohibited Conduct occurs upon a property
24 after the City has provided Notice to Abate the public nuisance, the City may file
25 an action in any court of general jurisdiction against the Owner and/or Occupants
26 to enjoin the nuisance and to recover a fine of not less than two hundred fifty
dollars (\$250.00) and not more than two thousand five hundred dollars (\$2,500.00)
with each day of violation constituting a separate offense. In determining the

1 amount of the fine to be imposed, the court may consider the attempts of the
2 Owners and/or Occupants to address the public nuisance.

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

5 _____
6 Council Member

7 APPROVED AS TO FORM AND LEGALITY

8
9
10 _____
11 Carol Helton, City Attorney