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BILL NO. G-20-01-16 As Amended As Amended As Amended

BILL NO. G-

AN ORDINANCE ADDING §130.04 DISORDERLY HOUSES; PROHIBITED TO CHAPTER 130: OFFENSES AGAINST CITY REGULATONS 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 intent of this chapter is to focus on dwellings units where the owner resides as the occupant. It does not apply to non-owner occupied, rental units. People should be able to enjoy ownership, use and possession of property without negative interference by disorderly neighbors. 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 to and surrounding the structure such as a yard or lot under the same ownership. If it is a multi-unit dwelling or establishment, this definition only applies to the unit of the owner-occupant.

## (2) *Owner* means:

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- a. The recorded owner of the property, as determined by the records of the Allen County Assessor's Office;
- b. Any party with an equitable interest in the property, including a purchaser under a Contract for Conditional Sale of Real Estate commonly known as a Land Contract, which may or may not be recorded; or
- c. The trustee of a land trust, if the land trust holds title to such property.
- d. A shareholder, member, partner or other ownership interest in a corporation, limited liability company, partnership or other entity, which entity is the title holder to the real property in question.
- (3) *Occupant* means any person over eighteen (18) years of age whose domicile is the property upon which the prohibited conduct has been found to have occurred.
- (4) *Prohibited Conduct* means activities occurring in violation of and as defined by Indiana state law or Fort Wayne City Code, which include, but are not limited to conduct related to the following:
  - a. Gambling;
  - b. Contributing to the delinquency of a minor;
  - c. Resisting law enforcement;
  - d. Disorderly conduct;
- e. Prostitution;
  - f. Patronizing a prostitute;

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1	g. Criminal recklessness;
2	h. Discharge of firearms;
3	i. Unreasonable noise;
4	j. Maintaining a common nuisance;
5	k. Racketeering;
6	1. Violations of any of the Indiana statutes governing criminal gang activity,
7	intimidation, recruitment;
8	m. Violations of any of the Indiana statutes governing the sale, dealing, use,
9	possession and/or manufacturing illicit narcotics or dangerous controlled
10	substances;
11	n. Violations of any of the Indiana statutes governing the sale, possession,
12	delivery or receipt of alcoholic beverages.
13	(C) Public nuisance. Whenever Prohibited Conduct as defined in Section B(4) of this Chapter
14	occurs in or upon a building, dwelling, establishment, premises or place, the City may
15	deem the building, dwelling, establishment, premises or place to be a Disorderly House
16	which constitutes a public nuisance.
17	(D) Reports, investigations and Notice to Abate
18	(1) A complaint or report of suspected Prohibited Conduct committed by the Owner and
19	Occupant, as observed by persons residing or working in the vicinity of the property,
20	City officials, and/or representatives of agencies and/or departments of the City, shall
21	be submitted to the Fort Wayne Police Department and each report or complaint shall
22	be individually logged in that office.
23	(2) Upon receipt of any report or complaint of such suspected illegal activities on the
24	premises, including the outside area contiguous to and surrounding the structure such
25	as a yard or lot under the same ownership, the Fort Wayne Police Department may
26	conduct a further investigation.

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

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- (4) The City deems the Owner and Occupants of the property responsible for any and all Prohibited Conduct occurring upon the premises after receipt of the Notice to Abate.
- (E) *Manner of serving Notice to Abate*. The Notice to Abate shall be provided to the Owner and Occupants in the following manner:
  - (1) Sending a copy of the Notice to Abate by registered or certified mail to the residence, or certified to the residence or place of business or employment of the person to be notified, with return receipt requested;
    - (2) Delivering a copy of the Notice to Abate personally to the person to be notified; or
    - (3) Leaving a copy of the Notice to Abate at the dwelling or usual place of abode of the person to be notified.

(F) *Exception*. This Chapter does not apply when contact with law enforcement is made by or on behalf of a victim or potential victim of abuse; a victim or potential victim of a crime; an individual in an emergency; or if the individual has a physical or mental impairment preventing them from controlling their conduct.

(G) Penalty, injunctive relief. Whenever Prohibited Conduct occurs upon a property after the 21 22 City has provided Notice to Abate the public nuisance, the City may file an action in any court of general jurisdiction against the Owner and/or Occupants to enjoin the nuisance 23 and to recover a fine of not less than one hundred dollars (\$100.00) and not more than two 24 thousand five hundred dollars (\$2,500.00) for each day with no attempt to abate the 25 violation constituting a separate offense. In determining the amount of the fine to be 26 27 imposed, the court may consider the attempts of the Owners and/or Occupants to address the public nuisance. 28

1	(H)	The provisions of Chapter 130.04 will sunset three years following the adoption of this
2		chapter unless ratified by the Common Council.

**SECTION 2.** 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