

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

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

9  
10 SECTION 1. That §130.04 DISORDERLY HOUSES; PROHIBITED is added to  
11 Chapter 130: Offenses Against City Regulations of the City of Fort Wayne, Indiana, Code of  
12 Ordinances, as follows:

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14 **CHAPTER 130: OFFENSES AGAINST CITY REGULATIONS**

15 *Offenses Against Public Peace and Safety*

16 ADD:

17 Section

18 **§ 130.04 DISORDERLY HOUSES; PROHIBITED.**

19 (A) Purpose. The intent of this chapter is to focus on dwellings units where the owner resides  
20 as the occupant. It does not apply to non-owner occupied, rental units. People should be  
21 able to enjoy ownership, use and possession of property without negative interference by  
22 disorderly neighbors. The Common Council of the City of Fort Wayne finds it to be in  
23 the best interests of the residents of the City and the general public to provide for the  
24 regulation of conduct committed by the owner of a property and/or its occupants it deems  
25 to be offensive, to prevent vice and disorder; and to promote public peace, health and  
26 safety, and to this end, the Common Council enacts this section.

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

1 (1) *Disorderly House* means a building, dwelling, establishment, premises or place  
2 where prohibited conduct occurs, including the outside area contiguous to and  
3 surrounding the structure such as a yard or lot under the same ownership. If it is a  
4 multi-unit dwelling or establishment, this definition only applies to the unit of the  
5 owner-occupant.

6 (2) *Owner* means:

- 7 a. The recorded owner of the property, as determined by the records of the  
8 Allen County Assessor's Office;
- 9 b. Any party with an equitable interest in the property, including a purchaser  
10 under a Contract for Conditional Sale of Real Estate commonly known as a  
11 Land Contract, which may or may not be recorded; or
- 12 c. The trustee of a land trust, if the land trust holds title to such property.
- 13 d. A shareholder, member, partner or other ownership interest in a corporation,  
14 limited liability company, partnership or other entity, which entity is the title  
15 holder to the real property in question.

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17 (3) *Occupant* means any person over eighteen (18) years of age whose domicile is the  
18 property upon which the prohibited conduct has been found to have occurred.

19 (4) *Prohibited Conduct* shall mean only activities occurring in violation of and as  
20 defined by Indiana criminal code or Fort Wayne City Code, as set forth in the  
21 following enumerated list:

- 22 a. Gambling;
- 23 b. Contributing to the delinquency of a minor;
- 24 c. Prostitution;
- 25 d. Patronizing a prostitute;
- 26 e. Discharge of firearms;
- 27 f. Unreasonable noise;

- 1 g. Maintaining a common nuisance;
- 2 h. Racketeering;
- 3 i. Violations of any of the Indiana statutes governing criminal gang activity,  
4 intimidation, recruitment;
- 5 j. Violations of any of the Indiana statutes governing the sale, dealing, use,  
6 possession and/or manufacturing illicit narcotics or dangerous controlled  
7 substances;
- 8 k. Violations of any of the Indiana statutes governing the sale, possession,  
9 delivery or receipt of alcoholic beverages.

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

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

- 15 (1) A complaint or report of suspected Prohibited Conduct committed by the Owner and  
16 Occupant, as observed by persons residing or working in the vicinity of the property,  
17 City officials, and/or representatives of agencies and/or departments of the City, shall  
18 be submitted to the Fort Wayne Police Department and each report or complaint shall  
19 be individually logged in that office.
- 20 (2) Upon receipt of any report or complaint of such suspected illegal activities on the  
21 premises, including the outside area contiguous to and surrounding the structure such  
22 as a yard or lot under the same ownership, the Fort Wayne Police Department may  
23 conduct a further investigation.
- 24 (3) Upon completion of investigation by the Fort Wayne Police Department revealing a  
25 reasonable belief that such suspected Prohibited Conduct has occurred in or upon a  
26 building, dwelling, establishment, premises or place, the City shall notify the Owner  
27 of the property by sending a Notice of Abate that the building, dwelling,

1 establishment, premises or place is a Disorderly House and constitutes a public  
2 nuisance and the Owner shall terminate the public nuisance.

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

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

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

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

17 (G) *Penalty, injunctive relief.* Whenever Prohibited Conduct occurs upon a property after the  
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22 the violation constituting a separate offense. In determining the amount of the fine to be  
23 imposed, the court may consider the attempts of the Owners and/or Occupants to address  
24 the public nuisance.

25 (H) *Compilation and Delivery of Data:* Advocacy groups for Fair Housing, those with  
26 disabilities, and victims of domestic violence have expressed concerns that this ordinance  
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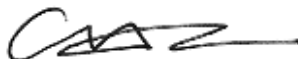
- 10 (I) The provisions of Chapter 130.04 will sunset three years following the adoption of this  
11 chapter unless ratified by the Common Council.

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

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Council Member

APPROVED AS TO FORM AND LEGALITY

  
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Carol Helton, City Attorney

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13 (F) *Exception.* This Chapter does not apply when contact with law enforcement is made by or  
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25 (II) *Compilation and Delivery of Data:* Advocacy groups for Fair Housing, those with  
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16 \_\_\_\_\_  
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27 Carol Helton, City Attorney  
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1 BILL NO. G-20-01-16 As Amended As Amended As Amended

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- 24 c. Resisting law enforcement;
- 25 d. Disorderly conduct;
- 26 e. Prostitution;
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17 (F) *Exception.* This Chapter does not apply when contact with law enforcement is made by or  
18 on behalf of a victim or potential victim of abuse; a victim or potential victim of a crime;  
19 an individual in an emergency; or if the individual has a physical or mental impairment  
20 preventing them from controlling their conduct.

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

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

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

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10 Council Member

11 APPROVED AS TO FORM AND LEGALITY

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14  
15 \_\_\_\_\_  
Carol Helton, City Attorney

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

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

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

13 **CHAPTER 130: OFFENSES AGAINST CITY  
14 REGULATIONS**

15 *Offenses Against Public Peace and Safety*

16 ADD:

17 Section

18 **§ 130.04 DISORDERLY HOUSES; PROHIBITED.**

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

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

26 (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.

7 (2) *Owner* means:

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

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

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

- 21 a. Gambling;
- 22 b. Battery;
- 23 c. Contributing to the delinquency of a minor;
- 24 d. Resisting law enforcement;
- 25 e. Disorderly conduct;
- 26 f. Prostitution;
- 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.

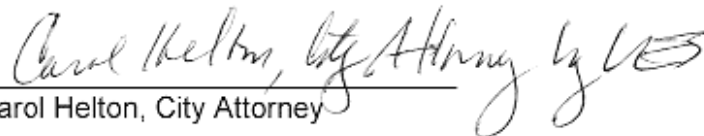
23 (G) *Penalty, injunctive relief.* Whenever Prohibited Conduct occurs upon a property  
24 after the City has provided Notice to Abate the public nuisance, the City may file  
25 an action in any court of general jurisdiction against the Owner and/or Occupants  
26 to enjoin the nuisance and to recover 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

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9   
10 Carol Helton, City Attorney

**BILL NO. G-20-01-16AA AA AA**

**REPORT OF COMMITTEE ON REGULATIONS**  
**February 11, 2020**




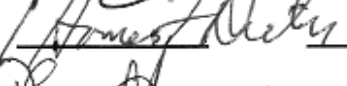
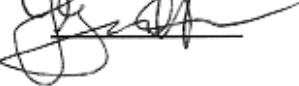

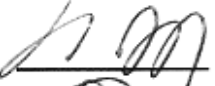


***Tom Freistroffer Chair***

***Glynn Hines Co-Chair***


***All Council Members***

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

COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
	_____	_____	_____
	_____	_____	_____
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	_____	_____	_____
	_____	_____	_____

**LANA R. KEESLING**  
**CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilperson Freistroffer.

Read the second time by title and referred to the Regulations Committee.

Read the third time in full and on motion by Councilperson Freistroffer, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHAMBERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TUCKER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: February 11, 2020

  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

General Ordinance No. G-20-01-16AA 7X on the 11th day of February, 2020

ATTEST:

  
 \_\_\_\_\_  
 LANA R. KEESLING  
 CITY CLERK

  
 \_\_\_\_\_  
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th of February 2020, at the hour of 4:05 o'clock P.M. E.S.T.

  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 18<sup>TH</sup> day of FEBRUARY

2020, at the hour of 1:00 o'clock PM E.S.T.

RECEIVED  
 FEB 21 2020  
 LANA R. KEESLING  
 CITY CLERK

  
 \_\_\_\_\_  
 THOMAS C. HENRY, MAYOR