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3 **AN ORDINANCE ADDING CHAPTER 103:**  
4 **COMMERCIAL CHRONIC PROBLEM**  
5 **PROPERTY REGULATIONS TO THE CITY OF**  
6 **FORT WAYNE, INDIANA, CODE OF**  
7 **ORDINANCES**  
8

9 **WHEREAS**, commercial properties where illegal activity occurs on a regular basis have  
10 adverse effects on health, safety, welfare, and quality of life of residents of the City of Fort  
11 Wayne’s (“City”) neighborhoods; and

12 **WHEREAS**, some persons that own or control such commercial properties in the City  
13 allow their properties to be used for illegal activity, with the result that these properties have  
14 become chronic problem properties in the community; and

15 **WHEREAS**, in 2017 and 2020, these issues were addressed by the creation and passage  
16 of Chapter 103: Commercial Chronic Problem Property Regulations, but a sunset provision was  
17 included and the regulations have since expired; and

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

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

24  
25 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE**  
26 **CITY OF FORT WAYNE, INDIANA:**  
27

28 **SECTION 1.** That Chapter 103: COMMERCIAL CHRONIC PROBLEM PROPERTY  
29 REGULATIONS is added to the City of Fort Wayne, Indiana, Code of Ordinances, as follows:  
30

31 CHAPTER 103: COMMERCIAL CHRONIC PROBLEM PROPERTY REGULATIONS

32 Section

33 103.01 Intent

34 103.02 Definitions

35 103.03 Warning notification process

1 103.04 Review for designation of commercial chronic problem property; designation of  
2 commercial chronic problem property

3 103.05 Remediation agreements; proactive measures to reduce time designated as a  
4 commercial chronic problem property

5 103.06 Limited appeals commercial chronic problem property designation

6 103.07 Intimidation and retaliation prohibited

7 103.08 Discrimination prohibited

8 103.09 Sunset provision

9  
10 103.99 Penalties; civil action by law department/dedication of portion of fees/fines to the Law  
11 Enforcement Training Fund #153

12  
13 § 103.01 INTENT

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

17 (B) The regulations set forth in this chapter are designed to protect the overall public health,  
18 safety and welfare of the city. They are further designed to help prevent and assist in abating  
19 repeat calls for service to the same property or location, which may result in diminished public  
20 safety services being provided to other residents and areas of the city. Repeat nuisance service  
21 call fees are authorized to be imposed and collected from the owner, commercial tenant,  
22 occupant and/or operator of the property designated as a commercial chronic problem property.  
23 Such fees are intended to help cover costs incurred by the city which are over and above the cost  
24 of providing services to properties not designated as a commercial chronic problem property.

25  
26 § 103.02 DEFINITIONS.

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

29 ABATE. To remedy a condition which constitutes a violation of federal, state and/or local law  
30 which is necessary and in the interest of the general health, safety, and welfare of the city.

31 CITATION. A written ordinance violation notice or penalty issued by the Fort Wayne Police  
32 Department, Fort Wayne Fire Department, Neighborhood Code Compliance or Animal Care and  
33 Control requiring payment of a fine to the City of Fort Wayne Violations Bureau.

34 CITY. The City of Fort Wayne, Indiana

1 COMMERCIAL BUSINESS PROPERTY. A property used for commercial or industrial  
2 purposes, whether or not such property is zoned commercial or industrial pursuant to Chapter  
3 157 of the Fort Wayne City Code. The term shall specifically exclude all portions of a property  
4 used for residential purposes.

5 COMMERCIAL CHRONIC PROBLEM PROPERTY. A commercial business property that  
6 has, within any 60 day period:

7 (1) Been the subject of 5 or more valid complaints for any offense under federal, state or  
8 local law which occurred on the property; or

9 (2) Been the subject of 5 or more compliance letters/orders and/or citations for violations of  
10 state or local law issued by the Fort Wayne Fire Department, Fort Wayne-Allen County  
11 Department of Health, Neighborhood Code Compliance, Animal Care and Control and/or the  
12 City of Fort Wayne Law Department; or

13 (3) Been the subject of a combination of valid complaints, citations, and/or compliance  
14 letters/orders issued by the Fort Wayne Police Department, the Fort Wayne Fire Department,  
15 Fort Wayne-Allen County Department of Health, Neighborhood Code Compliance, Animal Care  
16 and Control and/or the City of Fort Wayne Law Department, which together total 5 or more in  
17 number.

18 Multiple valid complaints, citations, and/or letters/orders issued under one incident shall only  
19 count once towards designation as a COMMERCIAL CHRONIC PROBLEM PROPERTY.

20 COMMERCIAL TENANT. An individual or entity that occupies a rental unit for commercial  
21 purposes with the landlord's consent and for consideration agreed upon by the landlord and  
22 tenant.

23 COMPLIANCE OFFICER(S). An employee of the Fort Wayne Police Department assigned to  
24 oversee the administration and implementation of this chapter.

25 OPERATOR. Any person who has charge, care or control of a commercial business property.  
26 The term shall include a person who leases property to a commercial tenant, if such person is not  
27 otherwise the owner of said property.

28 OWNER. Any person, agent, firm, operator, trust, partnership, limited liability company,  
29 corporation or other individual or legal entity having a legal or equitable interest in a parcel of  
30 property which constitutes a commercial business property; or recorded in the official records of  
31 the state, county or municipality as holding title to such commercial business property; or  
32 otherwise having control of the commercial business property, including a receiver, trustee,  
33 conservator or the guardian of the estate of any such person, and the executor or administrator of  
34 the estate of such person if ordered to take possession of real property by a court. Service on the  
35 registered agent shall be good service as to the owner.

36 POLICE DOCUMENTED CALL FOR SERVICE. Any time when a sworn member of the  
37 Fort Wayne Police Department is dispatched, deployed or responds to an incident at a specific  
38 location as a police response which results in the issuance of a citation or valid complaint. This  
39 term does not include calls made by or on behalf of a victim or potential victim of abuse, a  
40 victim or potential victim of a crime, or an individual in an emergency if (1) at the time the call

1 is made, the person making the call reasonably believes that law enforcement assistance or other  
2 emergency assistance is necessary to prevent the perpetration or escalation of the abuse, crime,  
3 or emergency, or (2) law enforcement assistance/other emergency assistance was needed to  
4 address abuse, a crime, or an emergency that has occurred.

5 POLICE RESPONSE. Any and all police action needed to protect the health, safety and  
6 welfare of inhabitants of a property or location with such response being subject to the governing  
7 rules and regulations of the Fort Wayne Police Department.

8 REMEDIATION AGREEMENT. A written agreement between an owner, commercial tenant,  
9 and/or operator and a compliance officer that outlines actions the owner, commercial tenant,  
10 and/or operator will take to abate a nuisance or condition occurring on a commercial business  
11 property.

12 VALID COMPLAINT. A police documented call for service for violation of any federal, state  
13 or local law which occurred at a commercial business property. The term does not include  
14 incidents involving an occupant of the premises who is the victim of the crime, including, but not  
15 limited to, victims of domestic violence, stalking, sexual abuse and/or persons with mental or  
16 physical disabilities pursuant to all applicable local, state and federal laws.

17 WARNING NOTIFICATION. A written document sent by the Fort Wayne Police Department  
18 to any owner, commercial tenant, and/or operator who has received three (3) valid complaints,  
19 citations and/or compliance letters/orders under this chapter.

20  
21 § 103.03 WARNING NOTIFICATION PROCESS.

22 The Fort Wayne Police Department shall issue a warning notification to the owner, commercial  
23 tenant, and/or operator advising said person(s) to contact the compliance officer to begin the  
24 process of working with the Fort Wayne Police Department to abate nuisances and avoid  
25 designation as a commercial chronic problem property. Such warning notification shall be sent  
26 within seven (7) calendar days after the third (3<sup>rd</sup>) valid complaint, citation and/or compliance  
27 letter/order is issued against the commercial business property. The warning notification shall be  
28 delivered by one of the following methods: (1) leaving a copy of the warning notification at the  
29 commercial business property address, followed by sending a copy through first class United  
30 States mail; or (2) sending the warning notification by certified mail, return receipt requested. In  
31 the case of a rental property, a copy of the warning notification shall also be delivered to the  
32 owner by personal service, electronically, or by first class United States mail if such notice was  
33 not already provided to the owner as outlined above.

34  
35 § 103.04 REVIEW FOR DESIGNATION OF COMMERCIAL CHRONIC PROBLEM  
36 PROPERTY; DESIGNATION OF COMMERCIAL CHRONIC PROBLEM PROPERTY.

37 (A) When reviewing documentation to designate a commercial business property as a  
38 commercial chronic problem property, the compliance officer shall review and verify:

1 (1) The number of police documented calls for service, valid complaints and citations issued  
2 by the Fort Wayne Police Department in the applicable 60 day period; and

3 (2) The number of citations and/or compliance letters/orders issued by the Fort Wayne Fire  
4 Department, Fort Wayne-Allen County Department of Health, Neighborhood Code Compliance,  
5 Animal Care and Control and/or the City of Fort Wayne Law Department to a commercial  
6 business property in the applicable 60 day period; and

7 (3) The number of violations issued by a state and/or federal agency.

8 (B) If the Compliance Officer determines that the commercial business property has been the  
9 subject of 5 or more valid complaints, citations, and/or compliance orders/letters within the  
10 applicable 60 day period, the Compliance Officer shall designate the commercial business  
11 property as a commercial chronic problem property.

12 (C) The Fort Wayne Police Department shall notify in writing the owner, commercial tenant,  
13 and/or operator that his/her/its commercial business property has been designated as a  
14 commercial chronic problem property. Said notification shall be delivered by the following  
15 methods: (1) leaving a copy of the notification at the commercial business property address,  
16 followed by sending a copy of the notice through first class United States mail; or (2) sending  
17 notification to the owner, commercial tenant, and/or operator by certified mail, return receipt  
18 requested. This notification shall identify:

19 (1) The owner, commercial tenant, and/or operator and the specific address that has been  
20 designated as a commercial chronic problem property;

21 (2) The number of valid complaints, citations, and compliance letters/orders pertaining to  
22 said commercial business property in the applicable 60 day period;

23 (3) The cost(s) which may be incurred if there are any future valid complaints, citations, or  
24 compliance letters/orders pertaining to the commercial business property;

25 (4) The cost(s) which may be incurred for any future background investigations and/or  
26 issuance of letter(s)/orders;

27 (5) The name, title, and contact information (i.e., mailing address, telephone and fax  
28 numbers and email address) of the individual whom the owner, commercial tenant, and/or  
29 operator may contact if he/she has questions regarding the notification; and

30 (6) The time period which the commercial chronic problem property designation will last  
31 and the terms and conditions which must be met for the removal of such designation.

32 (D) Copies of the written designation shall be simultaneously sent electronically to the Fort  
33 Wayne Fire Department, Fort Wayne-Allen County Department of Health, Neighborhood Code  
34 Compliance, Animal Care and Control, City of Fort Wayne Law Department, Office of the City  
35 Clerk, the Common Council Member who represents the district where the subject commercial  
36 business property is located, and the Common Council Office. In the case of a rental property, a  
37 copy of the written designation shall also be sent to the owner, if the owner was not the primary  
38 intended recipient of the designation as outlined above.

1 (E) Once designated as a commercial chronic problem property by the Compliance Officer,  
2 said property shall remain so designated and tracked on a computerized matrix for  
3 compliance/enforcement purposes for one (1) year from the date of designation. Said designation  
4 shall be removed upon action by the City of Fort Wayne Law Department after reviewing  
5 documentation from the Fort Wayne Fire Department, Fort Wayne-Allen County Department of  
6 Health, Neighborhood Code Compliance, Animal Care and Control and/or the City of Fort  
7 Wayne Law Department that said property has not been the subject of a valid complaint, citation,  
8 or compliance letter/order for a period of not less than 365 continuous days, unless credited per  
9 the regulations set forth in § 103.05. Additionally, any and all fines and repeat nuisance service  
10 call fees associated with said commercial chronic problem property must have been paid in full  
11 for removal from the matrix.

12 (F) The city deems the owner, commercial tenant, and/or operator responsible for any and all  
13 prohibited conduct occurring at the commercial business property after receipt of the written  
14 notice designating the property as a commercial chronic problem property.

15  
16 § 103.05 REMEDIATION AGREEMENTS; PROACTIVE MEASURES TO REDUCE TIME  
17 DESIGNATED AS A COMMERCIAL CHRONIC PROBLEM PROPERTY.

18 (A) The owner, commercial tenant, and/or operator of a commercial chronic problem property  
19 shall be required to enter into a remediation agreement. Such remediation agreement shall:

20 (1) Be in writing and signed by the owner, commercial tenant, and/or operator of the  
21 commercial chronic problem property and the Compliance Officer;

22 (2) Set forth immediate remedial measures which must be initiated within 14 calendar days  
23 of signing the remediation agreement, and thereafter establish monthly thresholds and needed  
24 corrective actions which will be monitored by the Compliance Officer;

25 (3) Include proactive measures determined necessary to abate the public health, safety and  
26 welfare violations identified; and

27 (4) Identify specific actions the owner, commercial tenant, and/or operator is required to  
28 complete by the last Friday of each month and transmit to the Compliance Officer.

29 (B) Within ten calendar days after a remediation agreement is executed by the parties  
30 described above, the Compliance Officer shall send an electronic copy of the executed  
31 remediation Agreement to the Chief of Police, the Fort Wayne Fire Department, the Fort Wayne-  
32 Allen County Department of Health, Neighborhood Code Compliance, Animal Care and Control,  
33 the City of Fort Wayne Law Department, the Common Council member who represents the  
34 district in which the commercial chronic problem property is located, and Common Council  
35 Office. In the case of a commercial rental property, the Fort Wayne Police Department shall also  
36 send a copy of the remediation agreement to the owner, electronically or by first class United  
37 States mail, if such notice was not already provided to the owner.

38 (C) In the event that the owner, commercial tenant, and/or operator complies with the  
39 remediation agreement in its entirety, then for every 30 calendar days that the commercial  
40 chronic problem property has no new valid complaints, citations and/or compliance letters/orders

1 issued against it, 15 calendar days shall be subtracted from the time said property is scheduled to  
2 be designated as a commercial chronic problem property; this process shall continue through the  
3 duration of the remediation agreement. The Fort Wayne Police Department shall be responsible  
4 for maintaining accurate records and sending monthly updates to the individuals listed in  
5 division (B) of this section and to allow such records to be available to stakeholders in the  
6 community.

7 (D) In the event that the owner, commercial tenant, and/or operator fails or refuses to enter  
8 into a remediation agreement, or fails to meet the obligations set forth in the remediation  
9 agreement, the Law Department or his/her official designee, shall commence legal action  
10 pursuant to § 103.99 of this chapter. Notice of non-compliance shall be electronically sent by the  
11 Law Department to the Chief of Police, the Fort Wayne Fire Department, the Fort Wayne-Allen  
12 County Department of Health, Neighborhood Code Compliance, Animal Care and Control, the  
13 Common Council Member who represents the district in which the commercial chronic problem  
14 property is located, and the Common Council Office. In the case of a rental property, the Law  
15 Department shall also send a copy of the notice of non-compliance to the owner electronically or  
16 by first class United States mail, if such notice was not already provided to the owner.

17 (E) Any new violations which are in addition to the items addressed in the remediation  
18 agreement may be pursued by the Law Department.

19  
20 § 103.06 LIMITED APPEALS OF COMMERCIAL CHRONIC PROBLEM PROPERTY  
21 DESIGNATION.

22 An administrative hearing officer designated by Neighborhood Code Compliance is authorized  
23 to hear limited appeals from owners, commercial tenants, and/or operators of commercial  
24 business properties that have been designated as a commercial chronic problem property. The  
25 appeal shall be filed within 15 calendar days of designation and be limited to the verification of  
26 whether said property has reached the requisite number of valid complaints, citations, and/or  
27 compliance letters/ orders set forth in § 103.04. A hearing before the hearing officer for such  
28 limited appeals must be held within 30 calendar days of the appeals being filed. Written notice of  
29 the date, time and location shall be sent certified mail to said person of record. The decision of  
30 the hearing officer shall be the final administrative action for purpose of judicial review.

31  
32 § 103.07 INTIMIDATION AND RETALIATION PROHIBITED.

33 If any person reports to a city employee or agent that he/she believes that they have been  
34 intimidated or threatened by the owner, commercial tenant, and/or operator of a commercial  
35 business property in the city due to filing a complaint or reporting an alleged violation of this  
36 chapter or under federal, state or local law, the city employee or agent shall encourage the person  
37 to report such alleged intimidation or retaliation to the Fort Wayne Police Department for further  
38 action.

39

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1 § 103.08 DISCRIMINATION PROHIBITED.

2 Nothing in this chapter shall be construed to encourage or authorize the discrimination by  
3 owner, commercial tenant, and/or operator against any persons based upon race, creed, religion,  
4 sex, disability, age, sexual orientation or national origin.

5

6 § 103.09 SUNSET PROVISION.

7 The provisions of Chapter 103 will sunset on December 31, 2027 following adoption of this  
8 chapter unless ratified by the Common Council.

9

10 § 103.99 PENALTIES; CIVIL ACTION BY LAW DEPARTMENT/DEDICATION OF  
11 PORTION OF FEES/FINES TO THE LAW ENFORCEMENT TRAINING FUND #153.

12 (A) Any owner, commercial tenant, and/or operator violating the provisions of this chapter  
13 shall be subject to the following penalties:

14 (1) Citations: after a property has been designated as a commercial chronic problem  
15 property, any subsequent violations (i.e. valid complaints, citations, and/or compliance  
16 letters/orders) shall result in a fine of \$250 per citation in addition to any other penalty imposed  
17 by ordinance and shall be payable through the City of Fort Wayne Violations Bureau.

18 (2) In addition to the collection of fines resulting from the issuance of citation(s), the Law  
19 Department is authorized to bring civil action against any alleged violator of this chapter for all  
20 unpaid repeat nuisance service call fees.

21 (B) Each violation of this chapter shall be deemed a separate offense.

22 (C) Dedication of fines/fees collection: 50% of all fines and fees collected for any violation of  
23 this chapter shall be deposited into the Law Enforcement Training Fund #153.

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Russell Jehl, Council Member

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30 APPROVED AS TO FORM AND LEGALITY

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32



33 Joseph G. Bonahoom, Council Attorney

2  
3 AN ORDINANCE ADDING CHAPTER 103: COMMERCIAL CHRONIC  
4 PROBLEM PROPERTY REGULATIONS TO THE CITY OF FORT WAYNE,  
5 INDIANA, CODE OF ORDINANCES

6  
7 **WHEREAS**, commercial properties where illegal activity occurs on a regular basis  
8 have adverse effects on health, safety, welfare, and quality of life of residents of the City  
9 of Fort Wayne’s (“City”) neighborhoods; and

10 **WHEREAS**, some persons that own or control such commercial properties in the  
11 City allow their properties to be used for illegal activity, with the result that these properties  
12 have become chronic problem properties in the community; and

13 **WHEREAS**, in 2017 and 2020, these issues were addressed by the creation and  
14 passage of Chapter 103: Commercial Chronic Problem Property Regulations, but a  
15 sunset provision was included and the regulations have since expired; and

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

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

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

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

29  
30 CHAPTER 103: COMMERCIAL CHRONIC PROBLEM PROPERTY REGULATIONS

31 Section

32 103.01 Intent

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34 103.03 Warning notification process

1 103.04 Review for designation of commercial chronic problem property; designation  
2 of commercial chronic problem property

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4 a commercial chronic problem property

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10 103.99 Penalties; civil action by law department/dedication of portion of fees/fines to  
11 the Law Enforcement Training Fund #153

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13 § 103.01 INTENT.

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

18 (B) The regulations set forth in this chapter are designed to protect the overall public  
19 health, safety and welfare of the city. They are further designed to help prevent and  
20 assist in abating repeat calls for service to the same property or location, which may  
21 result in diminished public safety services being provided to other residents and areas  
22 of the city. Repeat nuisance service call fees are authorized to be imposed and  
23 collected from the owner, commercial tenant, occupant and/or operator of the property  
24 designated as a commercial chronic problem property. Such fees are intended to help  
25 cover costs incurred by the city which are over and above the cost of providing services  
26 to properties not designated as a commercial chronic problem property.

27  
28 § 103.02 DEFINITIONS.

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

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32 local law which is necessary and in the interest of the general health, safety, and  
33 welfare of the city.

34 CITATION. A written ordinance violation notice or penalty issued by the Fort Wayne  
35 Police Department, Fort Wayne Fire Department, Neighborhood Code Compliance or  
36 Animal Care and Control requiring payment of a fine to the Office of the City Clerk.

1 CITY. The City of Fort Wayne, Indiana.

2 COMMERCIAL BUSINESS PROPERTY. A property used for commercial or industrial  
3 purposes, whether or not such property is zoned commercial or industrial pursuant to  
4 Chapter 157 of the Fort Wayne City Code. The term shall specifically exclude all  
5 portions of a property used for residential purposes.

6 COMMERCIAL CHRONIC PROBLEM PROPERTY. A commercial business property  
7 that has, within any 90 day period:

8 (1) Been the subject of 12 or more valid complaints for any offense under federal,  
9 state or local law which occurred on the property; or

10 (2) Been the subject of 12 or more compliance letters/orders and/or citations for  
11 violations of state or local law issued by the Fort Wayne Fire Department, Fort Wayne-  
12 Allen County Department of Health, Neighborhood Code Compliance, Animal Care and  
13 Control and/or the City of Fort Wayne Law Department; or

14 (3) Been the subject of a combination of valid complaints, citations, and/or  
15 compliance letters/orders issued by the Fort Wayne Police Department, the Fort Wayne  
16 Fire Department, Fort Wayne-Allen County Department of Health, Neighborhood Code  
17 Compliance, Animal Care and Control and/or the City of Fort Wayne Law Department,  
18 which together total 12 or more in number.

19 Multiple valid complaints, citations, and/or letters/orders issued under one incident  
20 shall only count once towards designation as a COMMERCIAL CHRONIC PROBLEM  
21 PROPERTY.

22 COMMERCIAL TENANT. An individual or entity that occupies a rental unit for  
23 commercial purposes with the landlord's consent and for consideration agreed upon by  
24 the landlord and tenant.

25 COMPLIANCE OFFICER(S). An employee of the Fort Wayne Police Department  
26 assigned to oversee the administration and implementation of this chapter.

27 OPERATOR. Any person who has charge, care or control of a commercial business  
28 property. The term shall include a person who leases property to a commercial tenant, if  
29 such person is not otherwise the owner of said property.

30 OWNER. Any person, agent, firm, operator, trust, partnership, limited liability  
31 company, corporation or other individual or legal entity having a legal or equitable  
32 interest in a parcel of property which constitutes a commercial business property; or  
33 recorded in the official records of the state, county or municipality as holding title to such  
34 commercial business property; or otherwise having control of the commercial business  
35 property, including a receiver, trustee, conservator or the guardian of the estate of any  
36 such person, and the executor or administrator of the estate of such person if ordered to  
37 take possession of real property by a court. Service on the registered agent shall be  
38 good service as to the owner.

39

1 POLICE DOCUMENTED CALL FOR SERVICE. Any time when a sworn member of  
2 the Fort Wayne Police Department is dispatched, deployed or responds to an incident at  
3 a specific location as a police response which results in the issuance of a citation or  
4 valid complaint. This term does not include calls made by or on behalf of a victim or  
5 potential victim of abuse, a victim or potential victim of a crime, or an individual in an  
6 emergency if (1) at the time the call is made, the person making the call reasonably  
7 believes that law enforcement assistance or other emergency assistance is necessary  
8 to prevent the perpetration or escalation of the abuse, crime, or emergency, or (2) law  
9 enforcement assistance/other emergency assistance was needed to address abuse, a  
10 crime, or an emergency that has occurred.

11 POLICE RESPONSE. Any and all police action needed to protect the health, safety  
12 and welfare of inhabitants of a property or location with such response being subject to  
13 the governing rules and regulations of the Fort Wayne Police Department.

14 REMEDIATION AGREEMENT. A written agreement between an owner, commercial  
15 tenant, and/or operator and a compliance officer that outlines actions the owner,  
16 commercial tenant, and/or operator will take to abate a nuisance or condition occurring  
17 on a commercial business property.

18 VALID COMPLAINT. A police documented call for service for violation of any federal,  
19 state or local law which occurred at a commercial business property. The term does not  
20 include incidents involving an occupant of the premises who is the victim of the crime,  
21 including, but not limited to, victims of domestic violence, stalking, sexual abuse and/or  
22 persons with mental or physical disabilities pursuant to all applicable local, state and  
23 federal laws.

24 WARNING NOTIFICATION. A written document sent by the Fort Wayne Police  
25 Department to any owner, commercial tenant, and/or operator who has received six (6)  
26 valid complaints, citations and/or compliance letters/orders under this chapter.

27  
28 § 103.03 WARNING NOTIFICATION PROCESS.

29 The Fort Wayne Police Department shall issue a warning notification to the owner,  
30 commercial tenant, and/or operator advising said person(s) to contact the compliance  
31 officer to begin the process of working with the Fort Wayne Police Department to abate  
32 nuisances and avoid designation as a commercial chronic problem property. Such  
33 warning notification shall be sent within seven (7) calendar days after the sixth (6<sup>th</sup>) valid  
34 complaint, citation and/or compliance letter/order is issued against the commercial  
35 business property. The warning notification shall be delivered by one of the following  
36 methods: (1) leaving a copy of the warning notification at the commercial business  
37 property address, followed by sending a copy through first class United States mail; or  
38 (2) sending the warning notification by certified mail, return receipt requested. In the  
39 case of a rental property, a copy of the warning notification shall also be delivered to the  
40 owner by personal service, electronically, or by first class United States mail if such  
41 notice was not already provided to the owner as outlined above.

1 § 103.04 REVIEW FOR DESIGNATION OF COMMERCIAL CHRONIC PROBLEM  
2 PROPERTY; DESIGNATION OF COMMERCIAL CHRONIC PROBLEM PROPERTY.

3 (A) When reviewing documentation to designate a commercial business property as  
4 a commercial chronic problem property, the compliance officer shall review and verify:

5 (1) The number of police documented calls for service, valid complaints and  
6 citations issued by the Fort Wayne Police Department in the applicable 90 day period;  
7 and

8 (2) The number of citations and/or compliance letters/orders issued by the Fort  
9 Wayne Fire Department, Fort Wayne-Allen County Department of Health, Neighborhood  
10 Code Compliance, Animal Care and Control and/or the City of Fort Wayne Law  
11 Department to a commercial business property in the applicable 90 day period; and

12 (3) The number of violations issued by a state and/or federal agency.

13 (B) If the Compliance Officer determines that the commercial business property has  
14 been the subject of 12 or more valid complaints, citations, and/or compliance  
15 orders/letters within the applicable 90 day period, the Compliance Officer shall  
16 designate the commercial business property as a commercial chronic problem property.

17 (C) The Fort Wayne Police Department shall notify in writing the owner, commercial  
18 tenant, and/or operator that his/her/its commercial business property has been  
19 designated as a commercial chronic problem property. Said notification shall be  
20 delivered by the following methods: (1) leaving a copy of the notification at the  
21 commercial business property address, followed by sending a copy of the notice  
22 through first class United States mail; or (2) sending notification to the owner,  
23 commercial tenant, and/or operator by certified mail, return receipt requested. This  
24 notification shall identify:

25 (1) The owner, commercial tenant, and/or operator and the specific address that  
26 has been designated as a commercial chronic problem property;

27 (2) The number of valid complaints, citations, and compliance letters/orders  
28 pertaining to said commercial business property in the applicable 90 day period;

29 (3) The cost(s) which may be incurred if there are any future valid complaints,  
30 citations, or compliance letters/orders pertaining to the commercial business property;

31 (4) The cost(s) which may be incurred for any future background investigations  
32 and/or issuance of letter(s)/orders;

33 (5) The name, title, and contact information (i.e., mailing address, telephone and  
34 fax numbers and email address) of the individual whom the owner, commercial tenant,  
35 and/or operator may contact if he/she has questions regarding the notification; and

36 (6) The time period which the commercial chronic problem property designation will  
37 last and the terms and conditions which must be met for the removal of such  
38 designation.

1 (D) Copies of the written designation shall be simultaneously sent electronically to  
2 the Fort Wayne Fire Department, Fort Wayne-Allen County Department of Health,  
3 Neighborhood Code Compliance, Animal Care and Control, City of Fort Wayne Law  
4 Department, Office of the City Clerk, the Common Council Member who represents the  
5 district where the subject commercial business property is located, and the Common  
6 Council Office. In the case of a rental property, a copy of the written designation shall  
7 also be sent to the owner, if the owner was not the primary intended recipient of the  
8 designation as outlined above.

9 (E) Once designated as a commercial chronic problem property by the Compliance  
10 Officer, said property shall remain so designated and tracked on a computerized matrix  
11 for compliance/enforcement purposes for one (1) year from the date of designation.  
12 Said designation shall be removed upon action by the City of Fort Wayne Law  
13 Department after reviewing documentation from the Fort Wayne Fire Department, Fort  
14 Wayne-Allen County Department of Health, Neighborhood Code Compliance, Animal  
15 Care and Control and/or the City of Fort Wayne Law Department that said property has  
16 not been the subject of a valid complaint, citation, or compliance letter/order for a period  
17 of not less than 365 continuous days, unless credited per the regulations set forth in §  
18 103.05. Additionally, any and all fines and repeat nuisance service call fees associated  
19 with said commercial chronic problem property must have been paid in full for removal  
20 from the matrix.

21 (F) The city deems the owner, commercial tenant, and/or operator responsible for  
22 any and all prohibited conduct occurring at the commercial business property after  
23 receipt of the written notice designating the property as a commercial chronic problem  
24 property.

25  
26 § 103.05 REMEDIATION AGREEMENTS; PROACTIVE MEASURES TO REDUCE  
27 TIME DESIGNATED AS A COMMERCIAL CHRONIC PROBLEM PROPERTY.

28 (A) The owner, commercial tenant, and/or operator of a commercial chronic problem  
29 property shall be required to enter into a remediation agreement. Such remediation  
30 agreement shall:

31 (1) Be in writing and signed by the owner, commercial tenant, and/or operator of  
32 the commercial chronic problem property and the Compliance Officer;

33 (2) Set forth immediate remedial measures which must be initiated within 14  
34 calendar days of signing the remediation agreement, and thereafter establish monthly  
35 thresholds and needed corrective actions which will be monitored by the Compliance  
36 Officer;

37 (3) Include proactive measures determined necessary to abate the public health,  
38 safety and welfare violations identified; and

39 (4) Identify specific actions the owner, commercial tenant, and/or operator is  
40 required to complete by the last Friday of each month and transmit to the Compliance  
41 Officer.

1 (B) Within ten calendar days after a remediation agreement is executed by the  
2 parties described above, the Compliance Officer shall send an electronic copy of the  
3 executed remediation Agreement to the Chief of Police, the Fort Wayne Fire  
4 Department, the Fort Wayne-Allen County Department of Health, Neighborhood Code  
5 Compliance, Animal Care and Control, the City of Fort Wayne Law Department, the  
6 Common Council member who represents the district in which the commercial chronic  
7 problem property is located, and Common Council Office. In the case of a commercial  
8 rental property, the Fort Wayne Police Department shall also send a copy of the  
9 remediation agreement to the owner, electronically or by first class United States mail, if  
10 such notice was not already provided to the owner.

11 (C) In the event that the owner, commercial tenant, and/or operator complies with the  
12 remediation agreement in its entirety, then for every 30 calendar days that the  
13 commercial chronic problem property has no new valid complaints, citations and/or  
14 compliance letters/orders issued against it, 15 calendar days shall be subtracted from  
15 the time said property is scheduled to be designated as a commercial chronic problem  
16 property; this process shall continue through the duration of the remediation agreement.  
17 The Fort Wayne Police Department shall be responsible for maintaining accurate  
18 records and sending monthly updates to the individuals listed in division (B) of this  
19 section and to allow such records to be available to stakeholders in the community.

20 (D) In the event that the owner, commercial tenant, and/or operator fails or refuses to  
21 enter into a remediation agreement, or fails to meet the obligations set forth in the  
22 remediation agreement, the Law Department or his/her official designee, shall  
23 commence legal action pursuant to § 103.99 of this chapter. Notice of non-compliance  
24 shall be electronically sent by the Law Department to the Chief of Police, the Fort  
25 Wayne Fire Department, the Fort Wayne-Allen County Department of Health,  
26 Neighborhood Code Compliance, Animal Care and Control, the Common Council  
27 Member who represents the district in which the commercial chronic problem property is  
28 located, and the Common Council Office. In the case of a rental property, the Law  
29 Department shall also send a copy of the notice of non-compliance to the owner  
30 electronically or by first class United States mail, if such notice was not already provided  
31 to the owner.

32 (E) Any new violations which are in addition to the items addressed in the  
33 remediation agreement may be pursued by the Law Department.

34  
35 § 103.06 LIMITED APPEALS OF COMMERCIAL CHRONIC PROBLEM PROPERTY  
36 DESIGNATION.

37 An administrative hearing officer designated by Neighborhood Code Compliance is  
38 authorized to hear limited appeals from owners, commercial tenants, and/or operators  
39 of commercial business properties that have been designated as a commercial chronic  
40 problem property. The appeal shall be filed within 15 calendar days of designation and  
41 be limited to the verification of whether said property has reached the requisite number  
42 of valid complaints, citations, and/or compliance letters/ orders set forth in § 103.04. A  
43 hearing before the hearing officer for such limited appeals must be held within 30

1 calendar days of the appeals being filed. Written notice of the date, time and location  
2 shall be sent certified mail to said person of record. The decision of the hearing officer  
3 shall be the final administrative action for purpose of judicial review.

4  
5 § 103.07 INTIMIDATION AND RETALIATION PROHIBITED.

6 If any person reports to a city employee or agent that he/she believes that they have  
7 been intimidated or threatened by the owner, commercial tenant, and/or operator of a  
8 commercial business property in the city due to filing a complaint or reporting an alleged  
9 violation of this chapter or under federal, state or local law, the city employee or agent  
10 shall encourage the person to report such alleged intimidation or retaliation to the Fort  
11 Wayne Police Department for further action.

12  
13 § 103.08 DISCRIMINATION PROHIBITED.

14 Nothing in this chapter shall be construed to encourage or authorize the discrimination  
15 by owner, commercial tenant, and/or operator against any persons based upon race,  
16 creed, religion, sex, disability, age, sexual orientation or national origin.

17  
18 § 103.09 SUNSET PROVISION.

19 The provisions of Chapter 103 will sunset on December 31, 2027 following adoption of  
20 this chapter unless ratified by the Common Council.

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

24 (A) Any owner, commercial tenant, and/or operator violating the provisions of this  
25 chapter shall be subject to the following penalties:

26 (1) Citations: after a property has been designated as a commercial chronic  
27 problem property, any subsequent violations (i.e. valid complaints, citations, and/or  
28 compliance letters/orders) shall result in a fine of \$250 in addition to any other penalty  
29 imposed by ordinance and shall be payable through the Office of the City Clerk.

30 (2) In addition to the collection of fines resulting from the issuance of citation(s), the  
31 Law Department is authorized to bring civil action against any alleged violator of this  
32 chapter for all unpaid repeat nuisance service call fees.

33 (B) Each violation of this chapter shall be deemed a separate offense.

34 (C) Dedication of fines/fees collection: 50% of all fines and fees collected for any  
35 violation of this chapter shall be deposited into the Law Enforcement Training Fund  
36 #153

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

3  
4  
5  
6  
7 \_\_\_\_\_  
8 Russell Jehl, Council Member

9  
10  
11 APPROVED AS TO FORM AND LEGALITY

12  
13 \_\_\_\_\_  
14 Joseph G. Bonahoom, Council Attorney

**BILL NO. G-24-04-32** *As Amended*

**REPORT OF COMMITTEE ON REGULATIONS**  
**July 16, 2024**

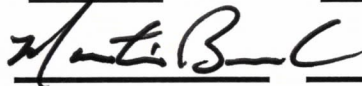




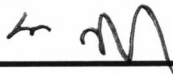

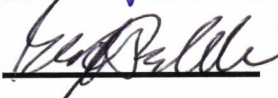
**Scott Myers Chair**

**Michelle Chambers Co-Chair**

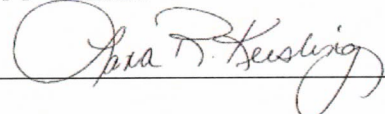
**All Council Members**

An Ordinance adding Chapter 103: Commercial Chronic Problem Property 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>COUNCIL MEMBER</u>	<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>
<u>BENDER</u>			
<u>BOOKER</u>			
<u>CHAMBERS</u>			
<u>ENSLEY</u>			
<u>FREISTROFFER</u>			
<u>HARTMAN</u>			
<u>JEHL</u>			
<u>MYERS</u>			
<u>PADDOCK</u>			

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



**BILL NO. G-24-04-32**

**REPORT OF COMMITTEE ON REGULATIONS  
June 25, 2024**


***Michelle Chambers Chair***

***Scott Myers Co-Chair***

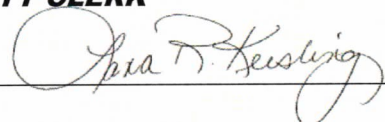
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<u>COUNCIL MEMBER</u>	<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>
<u>BENDER</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>BOOKER</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>CHAMBERS</u>	<u></u>	<u>                    </u>	<u>                    </u>
<u>ENSLEY</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>FREISTROFFER</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>HARTMAN</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>JEHL</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>MYERS</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>PADDOCK</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

**LANA R. KEESLING  
CITY CLERK**

  
\_\_\_\_\_

Public Hearing Date: N/A

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

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

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

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
BENDER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BOOKER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHAMBERS	<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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HARTMAN	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MYERS	<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"/>

DATED: July 23, 2024

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


Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as  
 General Ordinance No. G-24-04-32-AA on the 23rd day of July, 2024

ATTEST:


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

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

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 24th  
 of July 2024, at the hour of 9:00 o'clock A.M. E.S.T.

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

Approved and signed by me this 30th day of July 2024, at the  
 hour of 8:03 o'clock AM E.S.T.

  
 \_\_\_\_\_  
 SHARON TUCKER, MAYOR

