
ORDINANCE No. 10232-13

Passed by the Common Council of the City of South Bend, Indiana

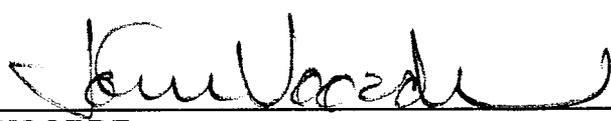
June 10, 20¹³

Attest:  *City Clerk*
JOHN VOORDE

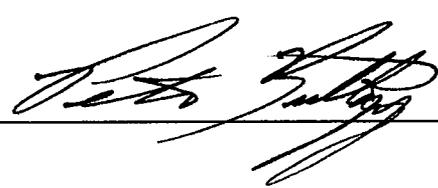
Attest:  *President of Common Council*

Presented by me to the Mayor of the City of South Bend, Indiana

June 11, 20¹³

 *City Clerk*
JOHN VOORDE

Approved and signed by me JUNE 11 20¹³

 *Mayor*

Substitute Bill No. 09-13

Ordinance No. 10232-13

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, AMENDING CHAPTER 13 OF THE *SOUTH BEND MUNICIPAL CODE* BY THE
INCLUSION OF NEW ARTICLE 12 ENTITLED CHRONIC PROBLEM PROPERTY
REGULATIONS AND AMENDING SECTION 2-123 SCHEDULE OF
ORDINANCE AND CODE VIOLATIONS**

STATEMENT OF PURPOSE AND INTENT

The South Bend Common Council notes that on January 30, 2013, Ronald Teachman was sworn in as the 61st Chief of Police of the South Bend Police Department. During his remarks, Chief Teachman listed the nine (9) basic "Peelian Principles" which have become the basic foundation of law enforcement and community policing. The first principle provides that "The basic mission for which the police exist is to prevent crime and disorder". The third principle provides that "Police must secure the willing co-operation of the public in voluntary observance of the law to be able to secure and maintain the respect of the public".

The Common Council further recognizes that the U.S. Department of Justice Office of Community Oriented Policy Services (COPS) has developed a wide variety of articles setting forth research and "best practices" on a variety of police enforcement and crime prevention strategies. Consistent with the *Peelian Principles*, COPS research, and research from other communities, the following ordinance has been developed to give another tool for our City. The ordinance advances legitimate public purposes which are designed to protect the valuable services provided by the Police Department. Valued police services should not be wasted in responding repeatedly to problem properties, when other areas of the city are in need of these vital public safety services.

We also recognize the need for Code Enforcement to inspect many chronic problem properties within the City. This results in added time and resources being dedicated to repeat visits to chronic problem properties, which detract from the inspectors responsibilities to other properties throughout the City.

This ordinance is also designed to be a catalyst for the Police Department, Code Enforcement Department and the Law Department to collaborate more effectively together among themselves, and with the Common Council and the public, when addressing chronic problem properties.

Through the analysis of calls for service, problem locations/properties can be identified. The data on calls for service include among other things the number of calls by hour and day; number of calls by beat; calls which required backup; and time spent by police officer(s) on each call as it is categorized. This ordinance is *solutions-oriented* so that identified problem areas and the underlying causes of such problem properties are routinely addressed with the support of the community. It contains a proactive mechanism through a remediation agreement process to help engage property owners address public safety issues & concerns. By abating such problem locations, the time of the "beat

officer” in particular would be freed up to provide such needed public safety services in other areas of the City.

The following ordinance is believed to be in the best interests of the City of South Bend, Indiana, by creating fair and reasonable methods to address chronic problem properties in a timely manner.

Section I. Chapter 13 of the *South Bend Municipal Code* is amended by the inclusion of new Article 12 which shall read in its entirety as follows:

Article 12. Chronic Problem Property Regulations.

Sec. 13-155 Findings of the Council and Purposes of Regulations.¹

(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 South Bend, Indiana.

(b) The Council further finds that by utilizing enforcement problem-oriented policing strategies that a corresponding reduction in calls for service and crime prevention should result.

(c) The regulations set forth in this Article 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 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.

(d) The regulations set forth in this Article are supplemental to other regulations codified in the *South Bend Municipal Code* and are designed to address chronic problem properties.

Sec. 13-156 Definitions.

As used in this Article:

(a) *Abate* means to remedy a condition which constitutes a violation of this Article which is necessary and in the interest of the general health, safety and welfare of the City.

¹ *Indiana Code* § 36-1-3-1, *et seq.*, sets forth the “Home Rule” legislation which authorizes and grants municipalities all the powers they need for the effective operation of government as to local affairs.

(b) **Chronic Problem Property** is a property which meets the following criteria:

1. A property address which has received five (5) ordinance citations or verified complaints involving nuisance activity in any sixty (60) calendar day period ; or
2. A property address which has been issued five (5) letters by the Police Department, and/or the Code Enforcement Department and/or the Law Department in a sixty (60) calendar day period which sought compliance by the property owner with section(s) of the *South Bend Municipal Code* involving nuisance activity, excluding any letters issued under the Property Maintenance Code addressed in Section 6-37 of the *South Bend Municipal Code* ; or
3. A combination of valid complaints and/or ordinance citations issued as further addressed in ¶ 1 herein, and/or has been issued letters by the Police Department, the Code Enforcement Department, and/or the Law Department, as further addressed in ¶ 2 herein, which together total not less than five (5) in number issued in a sixty (60) calendar day period.

However, in the event that a property consists of more than fifty (50) dwelling units which are rented or intended to be rented and are located on a single parcel or lot for which a postal address exists or may exist for each individual unit including residential rental properties, hotels, motels, or other similar properties offering overnight lodging, such address for a property shall not be considered as a chronic problem property until it has been issued more than twelve (12) verified complaints, ordinance citations, letters seeking compliance involving nuisance activity, as further addressed in ¶ 1 through ¶ 3 herein, in any ninety (90) day period.

(c) **Citation** means the issuance of a written document by a sworn police officer or Code Enforcement Department employee who has a valid police commission. Said document indicates that an act is prohibited as an offense punishable under the *South Bend Municipal Code* payment of a fine to the Ordinance Violations Bureau.

(d) **City** means the City of South Bend, Indiana.

(e) **Nuisance activity** means any criminal offense governed in Title 35 of the *Indiana Code*, and/or any citation issued for a violation of the *South Bend Municipal Code* which occurred on the

property and resulted in a police response and police documented call for service; and/or any complaint received by the Department of Code Enforcement resulting in the issuance of an citation or letter from that Department, the Police Department, or the Department of Law which seeks compliance under the *South Bend Municipal Code* for disrupting the general health, safety, and welfare.

(f) ***Police documented call for service*** means when a sworn member of the Police Department is dispatched or deployed to respond to an incident at a specific address as a police response.

(g) ***Police response*** means any and all police action needed to protect the health, safety and welfare of inhabitants of a property or location where verified complaint(s) have been documented, with such police response being subject to the governing rules and regulations of the Police Department.

(h) ***Verified complaint*** shall refer to a police documented call for service that an incident took place at a specific property address 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, or any ambulance or medical service response governed by the provisions of Section 9-16 of the *South Bend Municipal Code*.

(i) ***Warning Notice Letter*** shall be a form letter sent by the South Bend Police Department to any property owner who has received three (3) verified complaints, and/or ordinance citation(s) and/or letters issued by the Police Department, the Code Enforcement Department and/or the Law Department, which shall be sent along with a copy of this ordinance giving notice of the potential of being designated as a chronic problem property, and/or a reference to the website where the ordinance may be viewed.

Sec. 13-157 Violations; Notification and Limited Appeals of Being Designated by the City as a Chronic Problem Property.²

(a) The owner of any property within the City of South Bend which is designated by the City as a chronic problem property, as defined in Sec. 13-156, in in violation of this Article. The property owner of any designated chronic problem property shall be responsible for bringing such property into compliance with all governing regulations.

(b) The South Bend Police Department shall send a warning notice letter to any property owner

² *Indiana Code* § 36-1-1 through *Indiana Code* § 36-1-10 set forth the governing state law provisions for the enforcement of municipal ordinances. Section 2-13 of the *South Bend Municipal Code* identifies the City's nine (9) executive departments and specifically lists the Law Department, the Police Department and the Code Enforcement Department.

when the property address has been subject to three (3) verified complaints and/or ordinance citations and/or letters issued by the Police Department, the Code Enforcement Department and/or the Law Department, advising said owner that when the City verifies that said number increases to the thresholds in the definition of a chronic problem property, it shall be so designated. The Police Department, the Code Enforcement Department and the Law Department shall update their data on a regular and consistent basis and electronically transmit it to the assigned police officer(s) of the South Bend Police Department whose responsibilities include overseeing the warning notice letter process.

(c) When designating a specific property as a chronic problem property, the assigned police officer(s) in the South Bend Police Department, shall review and verify:

1. The number of police documented calls for service, the number of verified complaints and ordinance citations issued by the 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 sent by the Code Enforcement Department and the number of compliance letters sent by the Police Department and the Law Department to a property address in the applicable sixty (60) day or ninety (90) period.

Once designated as a chronic problem property by the assigned police officer(s) in the South Bend Police Department, 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 assigned police officer(s) shall see that the matrix shall be regularly updated and prominently posted on the City's website. Said designation shall only be removed upon action by the Law Department after reviewing documentation from the Police Department and Code Enforcement Department confirming that the subject property has not been the subject of a verified 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 13-158. Additionally, any and all fines and repeat nuisance service call fees associated with the designated chronic problem property must have been paid in full for removal.

(d) The South Bend Police Department shall notify in writing to the property owner that his/her property has been designated as a chronic problem property. Said notification shall be delivered in person by an individual designated by the City by leaving a copy of the notification personally to the person to be notified, by leaving a copy of the notification as set forth below, with such notification being documented by the City in their records; or by sending the notice to the property owner by priority mail which is tracked on line with the City tracking the date said notification was delivered. The

notification shall be sent to the property owner's residence or usual place of business which is on record in the assessor's office. This notification shall identify:

1. The property owner and list the specific address that has been designated as a chronic problem property;
2. The number of police documented calls for service involving verified complaints, the number of ordinance citations issued, the number of letters issued by the Police Department, Code Enforcement Department, and/or the Law Department, or any combination thereof 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 any future verified police documented calls for service to the property;
4. The cost(s) which may bet incurred for any future background investigations and/or issuance of letter(s) by the Police Department, the Code Enforcement Department, and/or the Law Department;
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 of the property address designated as a chronic problem property may contact if he/she has questions regarding the notification; and
6. The time period which the designation as a chronic problem property will last and the terms and conditions which must be met for the removal of such designation.

(e) Copies of the written notice sent by the South Bend Police Department on each property address designated as a chronic problem property shall be simultaneously sent electronically to the Law Department, the Code Enforcement Department, Office of the City Clerk, the District Council Member who represents the District where the subject property is located, and all At Large Council Members.

(f) The City deems the owner of the property and the occupants of the property 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.³

(g) A Hearing Officer is authorized to hear limited appeals from owners of a property who have been designated by the City as a chronic problem property. Said appeal shall be limited to the verification of whether said owner has reached the requisite and applicable number set forth in Section 13-156(b) to be designated as a chronic problem property. Said appeal must be made within ten (10) days of the date of notice being made by the City to the property owner. A hearing before the Hearing Officer for such limited appeals must be held within thirty (30) calendar days of the appeal being filed. Written notice of the date, time and location shall be mailed or personally delivered by the City to said owner. The decision of the Hearing Officer shall be the final administrative action for purpose of judicial review.

Sec. 13-158 Remediation Agreements – Proactive Measures to Reduce Time Designated as a Chronic Problem Property.

(a) In the event that a property consists of more than fifty (50) dwelling units which are rented or intended to be rented and are located on a single parcel or lot for which a postal address exists or may exist for each individual unit including residential rental properties, hotels, motels, or other similar properties offering overnight lodging; or if a property is a business establishment required to have a license or permit to sell alcoholic beverages under Title 7.1 of the *Indiana Code*, and has been designated as a chronic problem property, the owner of such property shall be required to enter into a Remediation Agreement. Such Remediation Agreement shall:

1. Be in writing and signed by the owner or the owner's duly authorized agent of the property designated as a chronic problem property and the South Bend Police Department's sworn police officer(s) assigned to oversee said property's compliance measures;
2. Set forth immediate remedial measures which must be implemented within fourteen (14) days of signing the Remediation Agreement, which establishes thereafter monthly thresholds and needed corrective actions which will be monitored by the Police Department's sworn police officer(s) who were assigned to negotiate the Remediation Agreement with the owner of the subject property or the property's duly authorized agent;

³ The wording in this paragraph is similar to that set forth in Section 13-75.5 of the *South Bend Municipal Code* addressing disorderly house regulations.

3. Remediation Agreements shall also include but not be limited to including 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 or his/her duly authorized agent is required to complete by the last Friday of each month and transmit to the Police Department's assigned sworn police officer(s) who shall evaluate compliance. All remediate agreements shall be for a term of not less than six (6) months.⁴

(b) Copies of all Remediation Agreements entered into shall be electronically sent by the assigned sworn police officer to the Chief of Police, the Corporation Counsel of the Law Department, the Director of Code Enforcement, the District Council Member who represents the District in which the chronic problem property is located, all Council Members at Large, and the Office of the City Clerk, with such electronic correspondence taking place the same day that the Remediation Agreement is signed by both parties.

(c) In the event that the owner, or the owner's duly authorized agent fails or refuses to enter into a Remediation, or if the owner or owner's duly authorized agent fails to meet the obligations set forth in the Remediation Agreement, the Corporation Counsel of the Law Department, or his or her official designee, shall commence legal action pursuant to Section 1-23 of the *South Bend Municipal Code*. as soon as practicable. Notice of non-compliance shall be electronically sent by the Corporation Counsel to the Chief of Police, the Director of the Code Enforcement Department, the District Council Member who represents the District in which the chronic problem is located, all Council Members at Large, and the Office of the City Clerk of his/her action to commence such legal action as soon as practicable, upon being notified by the sworn police officer assigned to the case.

(d) So long as the owner or the owner's duly authorized agent is in compliance with the Remediation Agreement, no additional action by the Law Department is to be commenced on the items addressed in said Agreement. However, any new violation(s) which are in addition to the items addressed in the Remediation Agreement, may be pursued by the Law Department

⁴ The Center for Problem-Oriented Policing publication entitled *Shifting and Sharing Responsibility for Public Safety Problems, Response Guide No. 3* sets forth a variety of methods including but not limited to educating about responsibilities in addressing problems, charging for police services when there are excessive calls in an attempt to have partial cost recovery. Those methods and the SARA Model problem-solving model (Scanning, Analysis, Response and Assessment) would be used by the South Bend Police Department when implementing Remediation Agreements addressed in this section. Copies of both of these documents are on file in the Office of the City Clerk and the South Bend Police Department.

(e) In the event that the owner or the owner's duly authorized agent complies with the Remediation Agreement in its entirety and if the property has no new ordinance 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 South Bend Police Department shall be charged with maintaining accurate records and sending monthly updates to the individuals listed in paragraph (b) herein.

Sec. 13-159 Repeat Nuisance Service Call Fees for *Chronic Problem Properties*; Notice.⁵

(a) The South Bend Police Department and the Code Enforcement Department shall file semi-annually with the Office of the City Clerk, a record of the cost to respond to a call for service based on the type of call for service, type of property, type of personnel and equipment. The first filing of said records shall be made on or before September 15, 2013, with all filings thereafter being made on or before the first Monday in January and the first Monday in July. Each department shall use reasonable and uniform criteria in developing such data and fees for such services. The record of costs shall remain in effect until a new record of costs is filed with the Office of the City Clerk.

(b) The property owner shall incur repeat nuisance service call fees for a property designated by the South Bend Police Department as a chronic problem property if the property owner has first been provided written notice of that designation, with such fees being consistent with the record of costs on file as provided in subsection (a) of this section. All fees are due and payable within thirty (30) days of the date of such notice.

Sec. 13-160 Penalties; Civil Action by Law Department/ Dedication of Portion of Fees/Fines to the Law Enforcement Continuing Education Fund (Fund # 220)⁶

(a) Any property owner violating the provisions of this Article 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 Article for all unpaid repeat nuisance service call fees.

⁵ *Indiana Code* § 36-1-3-8 requires fees to be related to the cost of the service so that they are "reasonable and just".

⁶ *Indiana Code* § 36-1-4-17 authorizes the City to collect any money that is owed the City, including reasonable attorney 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 (\$250.00) and for every citation issued thereafter which shall be payable through the Office of the City Clerk.

(b) Each violation of this Article 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 Article shall be deposited into the Law Enforcement Continuing Education Fund (Fund # 220).

(d) Data addressed in this Section shall be summarized on the matrix required in Section 13-157 of the *South Bend Municipal Code* which is to be placed, maintained, and regularly updated on the City's website.

Sec. 13-161 Intimidation and Threats by Property Owner Prohibited.⁷

If any person reports to a City employee or agent that he or she believes that he/she has been intimidated or threatened by the owner or owner's agent if he or she files a complaint or reports an alleged violation of this Article, the City employee or agent shall encourage the person to report such alleged intimidation or threat to the South Bend Police Department for further action.

Sec. 13-162 Through Sec. 13-164 Reserved for Future Regulations.

Section II. Chapter 2, Article 19, Section 2-213 of the *South Bend Municipal Code* shall be amended by the inclusion of the following and inserted into the chart in proper numerical order:

13-160	Chronic Problem Property	\$250.00
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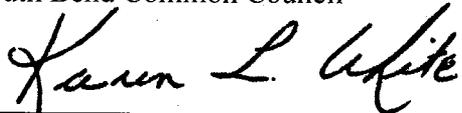
Section III. If any part, subsection, sentence, clause or phrase of this ordinance is for any reason declared to be unconstitutional or otherwise invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

⁷ *Indiana Code* § 35-45-2 addresses "Offenses Relating to Communications" including but not limited to intimidation, harassment and the interference with the reporting of a crime.

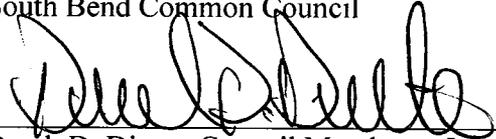
Section IIV. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor and legal publication, and become effective on October 15, 2013.



Tim Scott, 1st District Council Member
South Bend Common Council

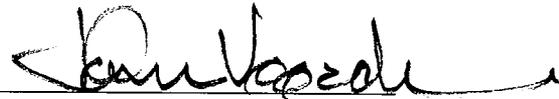


Karen L. White, Council Member at Large
South Bend Common Council



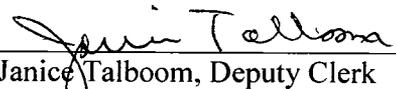
Derek D. Dieter, Council Member at Large
South Bend Common Council

Attest:



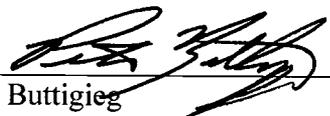
John Voorde, City Clerk

Presented by me to Pete Buttigieg, the Mayor of the City of South Bend, Indiana, on the 11th day of June, 2013, at 2:05 o'clock p. m.



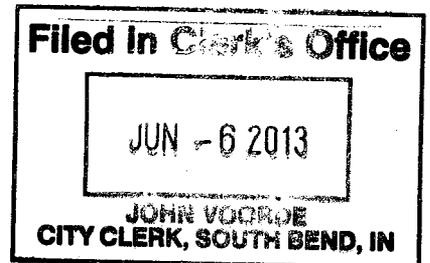
Janice Talboom, Deputy Clerk

Approved and signed by me on the 11 day of JUNE, 2013, at 5 o'clock P. m.



Pete Buttigieg
Mayor of the City of South Bend, Indiana

1st READING 3-11-13
PUBLIC HEARING 6-10-13 as 2nd Substitute
3rd READING 6-10-13 as 2nd Substitute
NOT APPROVED
REFERRED
PASSED 6-10-13 as 2nd Substitute



TO THE COMMON COUNCIL OF THE CITY OF SOUTH BEND:

Your Committee of the Whole, to whom was referred:

BILL NO.

09-13

A BILL OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 13 OF THE SOUTH BEND MUNICIPAL CODE BY THE INCLUSION OF NEW ARTICLE 12 ENTITLED CHRONIC PROBLEM PROPERTY REGULATIONS

Respectfully report that they have examined the matter and that in their opinion, this bill is being recommended to the full Council with a favorable recommendation as a 2nd substitute.

This bill was heard by the Health & Public Safety Committee.

Karen L. White
Chairperson, Committee of the Whole