

ORDINANCE NO. 22-12

AN ORDINANCE OF THE CITY OF PORTAGE, INDIANA AMENDING SECTION 54-11 OF THE MUNICIPAL CODE ENTITLED "EXCESSIVE POLICE CALLS"

WHEREAS, the Common Council of the City of Portage has determined that it has a substantial and compelling interest in protecting health, safety, property and welfare of its citizens and the areas of the City affected by chronic unlawful or nuisance activity.

WHEREAS, Chronic unlawful or nuisance activity of various kinds within the City adversely affects the health, safety and welfare of Portage citizens and the quality of life within the City and creates a public nuisance and is therefore subject to abatement.

WHEREAS. The City Council has determined that the existing city ordinances and codes do not adequately control said chronic unlawful or nuisance activity, or its detrimental effects of citizens and areas within the City.

WHEREAS, Police Department and Code Enforcement time and resources are disproportionately allocated to the chronic unlawful and/or nuisance activity.

WHEREAS this ordinance shall not be considered and “exclusive election of remedy” and shall not limit any other civil and/or criminal enforcement action against the property owner or occupant.

BE IT, AND IT HEREBY IS, ORDAINED by the Common Council of the City of Portage, Indiana as follows:

Ordinance Amendment. Chapter 54, Article I, Section 54-11 shall be amended by replacing the existing text in its entirety with the following new text:

Section 54-11. Excessive Police Calls, Disorderly Property and Public Nuisance

Section 1. Definitions.

- A. “Disorderly Property” shall mean a building, dwelling, establishment, premises or place of business where conduct occurs that results in excessive police calls as described below.
- B. “Owner” shall mean the Owner of the property, (and/or its agents) with said ownership as identified by the records of the Porter County Auditor.
- C. “Prohibited activity” shall be defined as any activity occurring at the Property that results in excessive police calls which shall include police calls for service as defined below in paragraph D.
- D. “Police Calls for Service” shall be defined as police calls for service other than ambulance calls (other than those resulting from drug/alcohol use or criminal activity), routine traffic stops, and motor vehicle accidents.

Section 2. Public Nuisance

For any property that has police calls not herein excluded, in excess of 10 in one calendar month is hereby deemed to be a public nuisance.

Section 3. Notice to Abate.

When a Property has reached seven (7) or more police calls for service (calls not excluded herein), the Police Department may notify the Owner that the Property is in jeopardy of becoming a Disorderly Property and Public Nuisance. The Notice shall reference the said calls for service and request the Owner, or its designee, to meet with the Portage Police Chief, or the Chief's designee, to discuss the matter. At said meeting, the Owner or designee shall outline the ways it intends to mitigate the Prohibited Conduct. Issuance of the Notice to Abate shall not be a condition or requirement to establishing a Disorderly Property and a public nuisance.

Section 4. Notice of violation

Upon the occurrence of the excessive police calls for service as defined in the above Section 2. The City shall give notice to the Owner that the Property is a Disorderly Property which constitutes a public nuisance.

Section 5. Penalty/Fine

Each call in excess of ten (10) that are not specifically excluded herein within a calendar month shall constitute a violation.

- a. Each call in excess of ten (10) up to twenty (20) calls shall constitute a separate violation, the penalty of which shall be fine for each violation is two hundred fifty dollars (\$250.00) per violation.
- b. Each call in excess of twenty (20) calls shall constitute a separate violation, the penalty of which shall be fine for each violation is five hundred fifty dollars (\$500.00) per violation.
- c. The city's code enforcement department and Police Department shall be responsible for the administration of this division.
- d. The City Attorney or City Attorney's designee may file an action in a Court of general jurisdiction against the Owner to enjoin the nuisance and to recover the fine. In addition, should the City be successful in any judicial enforcement action, the City shall be entitled to reimbursement of its costs and attorney's fees from the Owner.

Section 6. Manner of serving notice.

The City shall provide notice to the Owner in the manner provided under IC 36-7-8-25. The City hereby deems the Owner responsible for any and all prohibited conduct.

Section 7. Cooperation with the Owner

It is not the intent of this ordinance to discourage anyone from requesting police assistance especially in reporting known or suspected criminal activity. Notwithstanding, it is intended to create an atmosphere where the Owner takes steps to avoid the Property from becoming a public nuisance

Section 8. Reduction of Fine.

Upon request by an Owner of a Disorderly Property, the Board of Works shall have the authority, at its sole discretion, to eliminate or reduce the fine upon i.) a showing of a good faith effort to mitigate the conditions which caused the Property to be identified as a Disorderly Property and public nuisance.

Section 9. Conflicting Ordinances. Any Ordinance or provision of any Ordinance of the City of Portage or of the Municipal code of the City of Portage in conflict with the provisions of this Ordinance is hereby repealed.

Section 10. Severability. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

Section 4. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor of the City of Portage and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Portage, Porter County, Indiana, on the _____ day of _____, 2022

Presiding Officer

ATTEST:

Nina Rivas
Clerk-Treasurer

Presented by me to the Mayor of the City of Portage, Porter County, Indiana, this
_____ day of _____, 2022

Nina Rivas
Clerk-Treasurer

Presented to me, the Mayor of the City of Portage, Porter County, Indiana, this
_____ day of _____, 2022

Sue Lynch
Mayor