

SS0506-18

**Student Senate Resolution
South Bend Public Nuisance Ordinance**

Recognizing that the concerns of residents of the City of South Bend with regard to unacceptable and disrespectful behavior of students of the University of Notre Dame are legitimate; and that these concerns warrant the attention of not only the Common Council of the City of South Bend, but the Notre Dame Student Body; and

Recognizing that the complaints illustrate a greater problem in the frayed relations between South Bend residents and Notre Dame students; that distorted and harmful perceptions exist within both groups; and that improvements will only be made through combined efforts and sustained communication; and

Whereas Substitute Bill No. 40-05, amends Chapter 13, Article 5, Section 13-75.5 of the South Bend Municipal Code "to expand the scope of prohibited conduct which may generate an action to abate a public nuisance" and was passed on July 25, 2005 in response to residents' voiced concerns; and

Whereas the amended Public Nuisance Ordinance directs the City to notify the owner and occupants of a property if prohibited conduct has occurred on the premise through a "Notice to Abate" letter after one violation of §13-75.5 rather than three violations; and the letter, addressed to the occupants of the property, reads, "The public nuisance must be abated immediately. The owner and all occupants will be held responsible for any violation of §13-75.5 which occurs after this Notice to Abate"; and

Whereas "Eviction Proceedings as a defense" was added to the Ordinance hours before its passage in deference to the owners who contended they should not be held responsible for the behavior of their tenants; and this provision frees owners from all liability if they pursue eviction proceedings to completion within thirty days after having received notice of prohibited conduct; and

Whereas a notice to abate implies an opportunity to abate; and the active encouragement of eviction after notice of the first offense is inconsistent with the prescribed procedure of the Ordinance by eliminating the opportunity to abate; and

Whereas several Notre Dame students are currently facing eviction after a first offense; and due to legal fees, time costs, and a weakened ability to secure future housing, eviction as a punishment for a first offense is more harsh from the perspective of the student than the fine of no more than \$2,500, as prescribed by the ordinance after the second offense; and

Whereas owners are provided a defense through other provisions of the ordinance, which reads, "In determining the amount of the fine to be imposed, the Court may consider

the attempts of the property owners or occupants to address the public nuisance;" and furthermore, owners can pass on the fine to their tenants as incurred costs; and

Recognizing that the violation of state alcohol laws, as included in the definition of disorderly house conduct, is undoubtedly illegal behavior and requires redress; but that punitive measures should be taken according to an objective notion of justice, taking into account all perspectives; and that eviction after a first offense is excessive and inconsistent with other applications of the law; and

Recognizing that the Student Senate of the University of Notre Dame remains as committed as ever to the goal of improved community relations; but that the ordinance as passed threatens this goal by calling for a targeted and extreme punishment of students;

Therefore be it resolved the Public Nuisance Ordinance be further amended to be consistent with its original intent; that "Eviction Proceedings as a defense" for owners be encouraged after it is apparent that the initial "Notice to Abate" letter has not resulted in changed behavior by tenants; and that charges against the landlord be dropped by initiating procedures of eviction after notice of the second violation.