



Code of Ordinances
CITY OF AUBURN





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Offenses Relating to
Public Peace

CHAPTER
130

AUBURN



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130.01 DISORDERLY CONDUCT - REPEALED

(Ord. 2010-03, passed 2-16-10)

130.02 FIREWORKS REGULATIONS

A. DEFINITIONS:

- CONSUMER FIREWORKS

A small firework that is designed primarily to produce visible or audible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling and expelling charges consisting of a mixture of charcoal sulfur, and potassium nitrate are not considered to be designed to produce an audible effect. Consumer fireworks include:

- aerial devices, which include, but are not limited to, sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines, and shells;
- ground audible devices, which include, but are not limited to, firecrackers, salutes, and chasers; and
- firework devices containing combinations of the effects described in clauses (a) and (b).

- FIREWORK

Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks. The following items are excluded from the definition of fireworks:

- Model rockets.
- Toy pistol caps.
- Emergency signal flares.
- Matches.
- Fixed ammunition for firearms.
- Ammunition components intended for use in firearms, muzzle loading cannon, or small arms.
- Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.
- Indoor pyrotechnics special effects material.
- M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

B. CONSUMER USE OF FIREWORKS

No person within the corporate boundaries of the City shall use or display or permit to be used or displayed any type of consumer fireworks on any other day or time other than the following:

- June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, July 9, between the hours of 5:00 p.m. to two hours after sunset;
- Labor Day and the Sunday before Labor Day from 10:00 a.m. until two (2) hours after sunset;**
- July 4 between the hours of 10:00 a.m. and 12:00 midnight;
- Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1; and
- No other date or time is permitted for consumer use of fireworks.



130.03 AMPLIFYING DEVICES PROHIBITED ON STREETS

A. NEAR HOSPITALS, SCHOOLS, OR EDUCATIONAL FACILITIES

It shall be unlawful for any person, by himself or by the operation of any instrument, agency, motorized or mechanical device, and/or vehicle, to maintain plainly audible noise that can be heard within 30 feet of any portion of the grounds and premises on which is located a hospital or other institution reserved for the sick, or any school, library or educational facility during school hours. These areas shall be considered noise sensitive areas.

B. PUBLIC NOISE

No person shall play, use, operate or permit to be played, used, or operated, any mechanical machine or device for the producing or reproducing of sound, if it is located in or on any of the following:

1. Any public property, including any public right-of-way, highway, building, sidewalk, park or thoroughfare, if the sound generated is plainly audible at a distance of 30 feet from its source;
2. Any motor vehicle on a public right-of-way, highway, or public space if the sound generated is plainly audible at a distance of 30 feet from the device producing the sound.

C. NUISANCE

The following acts are declared to be a public nuisance:

1. The continuous or repeated sounding of any horn or signal device of a motor vehicle when not used as a danger signal.

D. OPERATION OF SOUND-MAKING DEVICES—GENERALLY

It shall be unlawful for any person owning, occupying or having charge of any business establishment, vehicle, residence, or any part thereof, in the City, to cause or suffer to cause the playing or operating of music boxes, jukeboxes, radios, musical instruments or any other musical devices on or about the premises between the hours of 11:00 p.m. and 5:00 a.m. the following day, unless such music boxes, jukeboxes, radios, musical instruments and other devices are played or operated in an environment that is self-contained and the sound is not plainly audible from 10 feet outside the building, structure, vehicle, or abode so as to not disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of abode.

E. LOUDSPEAKERS AND SOUND AMPLIFIERS

The use of or operation of any loudspeaker system, sound amplifier or other similar service between the hours of 11:00 p.m. and 5:00 a.m., within or adjacent to residential, noise-sensitive areas, public rights-of-way or public space such that the sound therefrom is plainly audible across the real property line of the source; provided that this shall not apply to any public performance, gathering or parade for which a permit from the Board of Public Works and Safety has been obtained.

F. SPECIAL PERMITS

Any person desiring relief from the provisions set forth in this article shall apply for a special permit to cause or create noise which would otherwise be in violation of this article at least 7 days prior to a scheduled Board of Public Works and Safety meeting. Applications for a special permit shall be made in writing to the Board of Public Works and Safety. Applications shall be available through the Police Department or Clerk-Treasurer’s office. The Board shall grant a special permit upon a showing by the applicant of the following:

1. Additional time is necessary for the applicant to alter or modify the activity in order to comply with the provisions of this article; or

2. The activity, operation or noise source will be of a temporary duration and cannot be sufficiently completed or done in a manner that would comply with the provisions of this article; and
3. No reasonable alternative is available to the applicant

Any permit granted pursuant to this section shall contain thereon all conditions upon which the permit has been granted, including but not limited to, the effective date, time of day, location and equipment limitation. No special permit shall be issued for a period in excess of 15 consecutive days. Any special permit granted pursuant to this section may be renewed upon application to the Board of Public Works and Safety upon a showing that the reasons for which the permit was granted still exist.

G. PLAINLY AUDIBLE

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

H. CONSTRUCTION EQUIPMENT

1. Prohibition; definitions. Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work such as pile drivers, steam shovels, pneumatic hammers, pumps, or other like equipment is prohibited:
 - a. Between the hours of 11:00 p.m. and 5:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across and at a residential district boundary or within a noise sensitive zone, except for emergency work of individuals, public service utilities, or by special permission issued pursuant to subsection (c).
 - b. At any other time such that the sound level at or across a real property boundary exceeds a reading of 0.79 weighted average dBA for the daily period of operation. Such sound levels shall be measured with a sound level meter manufactured according to standards prescribed by the American National Standards Institute.
2. Definitions
 - Noise disturbance as used herein, shall mean any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property.
 - Noise sensitive zone, as used herein, shall mean existing quiet zones, if any, and those areas containing noise sensitive activities including but not limited to, operations of schools, libraries open to the public, houses of worship, hospitals, and nursing homes.
 - Residential districts, as used herein, shall mean any residential district as set forth in the city's zoning ordinance, as amended, or as may be hereafter amended.
 - Weighted average dBA, as used herein, means the 24-hour energy average of the sound pressure level in decibels (dB), as measured on a sound level meter using the A-weighted network; any readings taken during the period 11:00 p.m. to 5:00 a.m. the following day are increased by ten dBA before averaging the other readings. The A-weighted network (dBA) is recommended by the U.S. Environmental Protection Agency as a means of describing environmental noise because it most closely mimics the human ear by weighting the frequency spectrum to give greater weight to the frequencies between 1,000 and 6,000 hertz (cycles per second).
3. Exception. The City of Auburn, public utilities, and individuals are hereby permitted to operate and use of any of the above construction machinery during the aforesaid prohibited periods of



time in the event that such operation or use is required to eliminate or reduce any dangerous or hazardous condition which endangers life or property.

I. FINE

Offenses under this chapter shall be punishable by a fine of up to \$100.00 per occurrence, which shall be payable to the Law Enforcement Continuing Education Fund 225.

130.04 DISCHARGING DANGEROUS WEAPON

No person shall discharge any cannon, gun, fowling piece, or firearm of any description, except on his premises so that no bullet or shot goes beyond the premises. No person shall fire or explode any squib, torpedo, rocket, firecracker, fireball, mine, or other explosive or combustible material within the limits of the city without license so to do. However, the provisions of this section shall not apply to the Fourth of July, occasions of public rejoicing under competent and careful control, or assemblages of the state militia or federal troops in charge of regular officers. No gun, revolver, or pistol shall be discharged within the city on these days and under these provisions except to quell riots and disturbances and to maintain the public peace.

130.05 THROWING STONES

No person shall throw or cast any stone or other missile, or throw any bullet, stone, or other heavy substance from a slingshot, air gun, or other appliance, or at or upon any building, tree, or other property, whether public or private, or on, from, or into any street, avenue, alley, lane, public place, or unenclosed grounds within the corporate limits of the city, except upon one's own premises.

130.06 UNLAWFUL ASSEMBLY

No person shall upon the streets or sidewalks of the city by any unlicensed show, exhibition, exercise, address, singing, shouting, or riotous behavior, call together an assembly of persons which impedes traffic on a street or sidewalk and prevents their free use and passage or which disturbs the public peace and interrupts the business of the citizens of the city. It shall be the duty of the City Marshal and his assistants or deputies to notify these persons to discontinue such acts.

130.07 LOITERING AND DISTURBING PEACE

No person shall loiter about any church door or place of public gathering, or upon the sidewalks and streets in front of and in the vicinity of any such services or gathering and engage in boisterous conduct or profane language, impede the passage of persons passing to and fro on the street and sidewalks, or congregate upon or within the vestibule or steps and entry ways of places of public gathering and perpetrate or provoke any of the foregoing disturbances.

130.08 NOISY OPERATION OF MOTOR VEHICLES

No person shall operate or use a motor vehicle of a type subject to state registration on the public streets and highways of this city at any time or under any condition of grade, load, or acceleration or deceleration, or in a state of repair that results in an operation and manner which creates loud and unnecessary grating, grinding, rattling, roaring, screeching, squealing, or other noise which would unduly disturb the peace and quiet of the city regardless of whether this noise is emitted from the engine, exhaust system, or tires on the roadway.

130.09 JUVENILE CURFEW

A. Definitions



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

- CURFEW HOURS

- a. It is a curfew violation for a child 15, 16, or 17 years of age to be in a public place:

- i. Between 1 a.m. and 5 a.m. on Saturday and Sunday;
 - ii. After 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or
 - iii. Before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

- b. It is a curfew violation for a child less than 15 years of age to be in a public place after 11 p.m. or before 5 a.m. on any day.

- DESIGNATED ADULT

- A person who is:

- a. Designated or given permission by a natural parent, adoptive parent, or step-parent, or guardian of another person to supervise the parent's child or children under this section; and
 - b. Is at least 18 years of age.

- EMERGENCY

- An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

- ESTABLISHMENT

- Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

- GUARDIAN

- a. A person who, under court order, is the guardian of the person of a minor; or
 - b. A public or private agency with whom a minor has been placed by a court.

- MINOR

- Any person under 18 years of age.

- OPERATOR

- Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership, the officers of a corporation, members or managers of a limited liability company or other like kind individuals.

- PARENT

- A person who is:

- a. A natural parent, adoptive parent, or step-parent of another person; or
 - b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

- PUBLIC PLACE

- Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

- REMAIN



- a. Linger or stay; or
- b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
- **SERIOUS BODILY INJURY**
Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

B. Offenses

1. A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city during curfew hours.
2. A parent, guardian or designated adult of a minor commits an offense if he or she knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

C. Defenses

1. It is a defense to being cited under this section if the minor was:
 - a. Accompanied by the minor's parent, guardian or designated adult for supervision purposes;
 - b. On an errand at the direction of the minor's parent guardian or designated adult without any detour or stop;
 - c. In a motor vehicle involved in interstate travel;
 - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - e. Involved in an emergency involving or potentially involving serious bodily injury;
 - f. On the sidewalk abutting the minor's residence or abutting the resident of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - g. Attending an official school, religious, political or other recreational activity supervised by adults and/or sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, political or other recreational activity supervised by adults and/or sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
 - h. Exercising First Amendment rights in the form of attending religious events, political events, vigils, lawful demonstrations and assembly, educational activities, neighborhood association meetings or other activities of a like kind that fall within the ambit of the First Amendment to the United States Constitution.
 - i. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, or
 - j. Married or had been married or has been legally emancipated in accordance with the Indiana Code.

D. Enforcement

A police officer, before taking any legal action, may take steps necessary to question any individual who appears to be under the age of 18 for the specific purpose of enforcing this section. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in division (C) above is present. An effort will be made on behalf of the



Police Department to contact the parent, guardian or designated adult to inform them of the alleged curfew violation under this section.

E. Penalties

1. A person who violates a provision of this section is in violation of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense is punishable by a fine.
2. The fines shall be punishable by the following schedule:
 - a. First offense: \$50
 - b. Second offense: \$100
 - c. Third offense: \$250
 - d. Fourth offense and each offense thereafter: \$500
3. Any person cited under this section shall pay the fine within five days of receiving the same to the Clerk-Treasurer of the city.

130.10 USE OF ENGINE COMPRESSION BRAKES PROHIBITED

- A. No vehicle shall use engine compression brakes or an engine retarder system to stop or slow down a vehicle if the system causes the vehicles motor to race in such a matter as to cause the exhaust system to emit a loud, crackling, backfiring, or chattering noise unusual to its normal operation. This practice being commonly known as Jake Braking.
- B. The Auburn Fire Department and the Auburn Police Department shall be charged with enforcing the provisions of this Section 130.02 (Fireworks Regulations). Any person who violates any of the provisions of Section 130.02 (Fireworks Regulations) shall be fined in the amount of **\$100.00** per occurrence.
- C. This prohibition must be designated by appropriate signs placed at or near the city limits. (I.C. 9-20-1-3(C)(2))

130.11 BANNING OF SYNTHETIC CANNABINOIDS COMMONLY KNOWN AS K-2 AND SPICE

A. SYNTHETIC CANNABINOID

It is hereby declared to be unlawful for any person, including a corporation or other entity, to use, manufacture, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following chemicals (*which are sometimes referred to as k-2, spice, and are considered a form of synthetic cannabinoid*) within the boudries of the City of Auburn.

1. 2-[(1r,3s)-3-HYDROXYCYCLOHEXYL]-5-(2-METHYLOCTAN-2-YL)PHENOL (also known as CP 47,497 AND ITS C6, C7, C8, and C9 homologues,)
 2. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methylolan-2-yl)-6a, 7,
 3. Naphthalen-1-yl-(1-pentylindol-3-yl)methanone {also known as 1 Pentyl-3-(1-naphthoyl)indole or JWH-018},
 4. Naphthalen-1-yl-(1-butylindol-3-yl)methanone {also known as 1-Butyl-3-(1-naphthyl)indole or JWH-073}, or any derivative thereto.
- B. This section may be enforced by the Auburn Police Department. Any substance reasonably suspected to be described by Subsection (A) may be seized and held as evidence pending adjudication of the alleged violation.



- C. It is not an offense under this Section herein if the person was acting in the direction of an authorized law enforcement agent to enforce or ensure compliance with this law prohibiting the sale of the aforementioned substance.
- D. This Section does not apply to any person who commits any act described in this Section pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This Section likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.
- E. Any person found in violation of this Section will be subject to a civil fine of \$500.00 for the first offense, \$1,000.00 for the second offense, and \$2,500.00 for the third offense and any offense thereafter.
- F. Each day during which violation of Subsection (A) occurs shall constitute a separate offense.
- G. The City Attorney shall have the authority to seek an injunction to compel compliance of any business which refuses to or fails to comply with this Section.
- H. If any provision of this Ordinance is held invalid, such invalidity shall not affect the remaining provisions of the Ordinance which shall remain effective absent the invalid provision, and to this end, the provisions of the Ordinance are declared to be severable.
- I. That the City of Auburn, Indiana is directed to take all action necessary and proper for the implementation of this Section of the Auburn City Code of Ordinances.
- J. SUNSET PROVISION: This Ordinance shall expire on July 1, 2011, if no further action is taken on these matters.

130.99 PENALTY

- A. Any person who violates the terms of 130.01 shall be guilty of disorderly conduct, and, upon conviction, shall be fined in any sum not exceeding \$100.
- B. Any person who violates any of the provisions of 130.02 shall be deemed guilty of a misdemeanor and be fined in any sum not exceeding \$25.
- C. Any person who violates any prohibitions of 130.03 shall, upon conviction, be fined in any sum not less than \$10 nor more than \$100.
- D. Any person who violates 130.04 through 103.07 shall, upon conviction, be fined in any sum not exceeding \$5.
- E. Any person, firm, or corporation who violates any of the provisions of 130.08 shall, upon the first offense, be fined not less than \$5 nor more than \$25. If this person, firm, or corporation commits the same offense within 12 months and is convicted thereof, the person, firm, or corporation shall be fined not less than \$10 nor more than \$100.