

June 6, 2022

2022 JUN -6 AM 11:00

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Requested by Department of Public Safety

AKRON CITY COUNCIL

Offered By: KAMMER MCKITRICK MOSLEYHolland

ORDINANCE NO. 150 -2022 reaffirming, amending, and/or supplementing portions of Titles 9, 11, and 13 of the Akron Codified Ordinances in order to effectively reassert the ban on discharging, igniting, or exploding fireworks within the City of Akron; and declaring an emergency.

WHEREAS, on November 8, 2021, Governor DeWine signed into law Amended Substitute House Bill 172 ("H.B. 172"), amending Ohio Revised Code Section 3743.45, which in part allows any person authorized to possess consumer grade fireworks to discharge, ignite or explode fireworks on their on their property, or if permitted, on another person's property, on certain designated days of the year; and

WHEREAS, H.B. 172 explicitly provides counties, townships, and municipalities, with the ability to either: i) restrict the days and times that a person may discharge, ignite, or explode consumer grade fireworks; or ii) impose a complete ban on the discharge, ignition, or explosion of consumer grade fireworks; and

WHEREAS, the City of Akron presently regulates and bans the discharge of consumer grade fireworks by virtue of the provisions found in Titles 9, 11, and 13, and more specifically set forth respectively in Chapters 93, 111, 137, and 139 of the Codified Ordinances; and

WHEREAS, both the Akron Fire Department and Akron Police Department strongly recommend that the City of Akron amend, supplement, and/or reaffirm the existing portions of the Codified Ordinances that regulate and ban the discharge of consumer grade fireworks within Akron, essentially "opting-out" of the new state law found in H.B. 172; and

WHEREAS, based on the information the City Administration has presented to this Council, the Council of the City of Akron finds that the discharge of fireworks within the City poses significant danger to the public health, safety and welfare, and may cause serious injuries as well as significant property damage, especially in in densely populated residential and business areas; and

WHEREAS, the Fire Chief and Police Chief recommend that this Council reaffirm the regulation and ban on discharging, igniting, or exploding fireworks set forth in Titles 9, 11, and 13, and more specifically set forth respectively in Chapters 93, 111, 137, and 139 of the Codified Ordinances; and

WHEREAS, the City finds that it is in the best interest of the public to continue to ban the discharge, ignition, or explosion of fireworks, which would otherwise be permitted by H.B. 172, as forth in existing in Chapters 93, 111, 137, and 139 of the Codified Ordinances, and further believes that a continued ban on the discharge of fireworks within the jurisdictional bounds of Akron will best protect the public safety, peace, and the residents' rights to the quiet enjoyment of their properties.

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Akron:

Section 1. Pursuant to the Home Rule Authority vested in the City of Akron by the Ohio Constitution and/or the authority granted in H.B. 172, the City of Akron hereby expressly reaffirms its restrictions and blanket ban on the discharge, ignition, and explosion of fireworks, as currently set forth in Chapters 93, 111, 137, and 139 of the Codified Ordinances of the City of Akron, as follows:

93.65 Pyrotechnics.

- A. The storage or sale of fireworks at wholesale or retail within the City is prohibited.
- B. Pyrotechnical displays or exhibitions shall obtain a permit from the Fire Chief prior to the program. An application for the permit shall be filed at least thirty days prior to the day of exhibition. Required permits may be issued only after the Fire Chief or his approved agent inspects the premises and determines that the premises complies with the requirements of Ohio Administrative Code § 1301:7-7-31.
- C. The Fire Chief may, at his discretion, remove, or have removed, at the owner's expense, all stacks of fireworks or other combustibles exposed for sale or held in violation of this section. Penalty, see § 93.99.

93.73 Permit and fee schedule.

- 1. Bon fires—\$50.00 with permit.
- 2. Inspector fee—Overtime rate for a District Chief per hour for fire watches, festivals, indoor pyrotechnics, repeat inspections, and any other activity that requires an off duty officer to be present.
- 3. Tent/air-supported structure permits—\$40.00 per site for each tent/air-supported structure greater than 120 square feet up to 10; a flat rate of \$400.00 for 11 or more; when the City of Akron sponsors or co-sponsors an event, although a permit is required, the fee shall be waived.
- 4. UST & AST permits—\$150.00 (1) tank. Each additional tank \$100.00. All other permits \$50. UST & AST plan review—\$100.00. Except as stated herein, all required UST & AST inspections at rate stated in OAC 1301:7.
- 5. Propane tank—suppliers—Permit—\$100.00 per company per year.
- 6. Paint booth inspections/auto body & repair shops—\$50.00 per year.
- 7. Hood suppression testing/fee—\$50.00.
- 8. Sprinkler system test fee—\$100.00.
- 9. Fire pump test fee—\$100.00.
- 10. Above & below ground hydro test fee—\$100.00.
- 11. Fire alarm test fee—\$100.00.
- 12. Place of assembly such as theaters, dance halls, public rental halls, skating rinks, dining establishments, nightclubs, and other places of assembly accommodating (1000) or more—\$100.00.
- 13. Inspection fees—Airport—Heliports—\$100.00.
- 14. Vehicle filling stations—\$50.00.
- 15. Fireworks—Inspector fee, at the overtime rate per Fire Lieutenant per hour and per inspector, consisting of time spent planning, set up, shoot, and clean up. The number of inspectors needed will be determined by size of shoot.
- 16. Day care/foster home/group home/adoptions—\$50.00.
- 17. Certificate of occupancy/Plan review fee per plan—\$100.00.
- 18. Smoke test fee—\$50.00.
- 19. Thrust blocking fee—\$50.00.

20. Food truck yearly inspection—\$25.00.
21. Fire watch fee—\$75.00.
22. After hours fee (two hour minimum) fee: \$75.00 (\$150 minimum)
23. Scrap rubber/scrap tire annual permit fee: \$50.00
24. The testing fees stated in this section apply to the first hour; with the exception of a hydro test, any test requiring additional time beyond one hour shall be charged at the overtime rate for a fire lieutenant per hour.
25. The testing fees stated in this section apply to one test; if the applicant fails a test, the fees stated in this section shall be charged anew for each subsequent re-test, excepting re-tests for day care/foster home/group home/adoption.

111.341 Licensing.

- A. No person shall engage in business as an itinerant retailer without first obtaining a license for such purpose from the License Clerk.
- B. No license shall be issued by the License Clerk unless an application for such license is submitted to the License Clerk and written verification is received from the Department of Planning and Urban Development, Zoning Section, that the retailing activity is permitted by the City zoning code on the property on which the itinerant retailer plans to conduct the activity.
- C. An application for an itinerant retailer license to sell fireworks shall be denied if the itinerant retailer or any of his employees have been convicted of a violation of § 137.300 or § 137.310 of this code or any violation of Chapter 3743 of the Revised Code within five years prior to the application.

An itinerant retailer license to sell fireworks will be revoked, and shall not be reissued for five years, if the itinerant retailer or any of his employees are convicted of a violation of § 137.300 or § 137.310 of this code or any violation of Chapter 3743 of the Revised Code during the licensing period. Penalty, see § 111.999.

137.32 Fireworks display permits.

Upon written permission secured from the Fire Chief, fireworks may be used for public or private exhibitions of fireworks in connection with fairs, carnivals, or other celebrations. Application for such permits shall be made to the Chief and shall be issued under such reasonable regulations to protect the safety of persons or property as the Chief may prescribe. In such cases parties in charge of such exhibitions shall be held strictly responsible for any damage to persons or property resulting from the use of fireworks so used. Fireworks being held in storage for such exhibitions must be kept in a closed wooden box or tarpaulin until they are to be used. § 137.31 and this section do not prohibit any wholesaler, dealer, or jobber from selling at wholesale such fireworks as are permitted to be used by such sections of the sale of fireworks to be shipped directly out of the state. (R.C. § 3743.33)

Section 2. That Title 13, Chapter 139, “Miscellaneous”, Section 139.03 “Criminal Activity Nuisances” is hereby reaffirmed, as follows:

139.03 Criminal activity nuisances.

- A. The following activities occurring on real property, and engaged in by an owner, occupant or invitee of the owner or occupant of the property, are hereby declared to be public nuisances:

1. Any animal violations under Sections 92.01 (running at large), 92.25 (control of dogs), 92.03 (killing or injuring animals), 92.05 (cruelty to animals) of the Codified Ordinances and similar statutes of the State of Ohio;
2. Any disorderly conduct, disturbance of the peace, noise or other violation of Chapter 132 of the Codified Ordinances and similar statutes of the State of Ohio;
3. Any drug abuse violation under Chapter 138 of the Codified Ordinances and similar statutes of the State of Ohio and any felony violation under R.C. Chapter 2925;
4. Any gambling violation under Chapter 134 of the Codified Ordinances and similar statutes of the State of Ohio;
5. Any health, safety, or sanitation violation under Chapter 94 of the Codified Ordinances and similar statutes of the State of Ohio;
6. Any obstruction of official business violation under Section 136.11 of the Codified Ordinances and similar statutes of the State of Ohio;
7. Any alcohol violation under Chapter 91 of the Codified Ordinances and similar statutes of the State of Ohio;
8. Any sex offense under Sections 133.06 (public indecency), 133.08 (procuring), 133.09 (soliciting), or 133.07 (prostitution) of the Codified Ordinances and similar statutes of the State of Ohio;
9. Any offense against another person under Sections 135.03 (assault), 135.04 (negligent assault), 135.05 (aggravated menacing), 135.06 (menacing), 135.17 (endangering children), or 135.21 (contributing to the unruliness and delinquency of a child) of the Codified Ordinances and similar statutes of the State of Ohio;
10. Any offense against property under Section 131.06 (criminal damaging or endangering) or 131.07 (criminal mischief) of the Codified Ordinances and similar statutes of the State of Ohio;
11. Any littering or deposition of waste under Chapter 95 of the Codified Ordinances and similar statutes of the State of Ohio;
12. Any theft violation under Sections 131.15 (theft) and 131.17 (receiving stolen property) of the Codified Ordinances and similar statutes of the State of Ohio, including felonies;
13. Any weapons, explosives, firearm or handgun violation under Chapter 137 of the Codified Ordinances and similar statutes of the State of Ohio;
14. Any fireworks violation under Section 137.31 of the Codified Ordinances and similar statutes of the State of Ohio;
15. Any open burning or recreational fires in violation of Section 93.40 of the Codified Ordinances and similar statutes of the State of Ohio;
16. Any curfew violation under Section 139.06 of the Codified Ordinances and similar statutes of the State of Ohio;
17. Any activity engaged in by a person under eighteen years of age which would constitute a violation of an offense listed in this section if committed by an adult.

B. The Chief of Police or his designee, upon finding that three or more nuisance activities declared in subsection A of this section have occurred at the property, within any six-month period, shall cause a written notice and order to be served on the owner of the property declaring that such property is a

nuisance property. The notice and order shall set forth the nature of the nuisances, the estimated costs to respond to and abate a similar future nuisance, and state that the owner may avoid being charged the costs of response and abatement by taking steps to prevent any further nuisance activities as set forth in this section. The notice shall further state that if a fourth or subsequent nuisance activity as declared in subsection A of this section occurs within six months of the date of the notice, the City may abate the nuisance by responding to the activities using administrative and law enforcement actions, and the costs of such abatement shall be assessed on the nuisance property. Notice shall be served on the owner personally or by certified mail and regular mail to the person's residence, regular place of business or last known address. If the certified or regular mail is returned undelivered, a copy shall be posted in a conspicuous place in or on the person's residence, regular place of business, last known address, or the property affected.

- C. If within six months of the date of the notice referred to in subsection B of this section, a fourth or subsequent nuisance activity as declared in subsection A of this section occurs, the City may abate the nuisance by responding to the activities using administrative and law enforcement action, and the costs of such abatement shall be assessed on the nuisance property. The costs of such response and abatement shall be calculated as set forth in subsection D of this section. Any further nuisance activity that occurs within six months of a nuisance activity for which the owner has been given notice of assessment may be charged to the owner.
- D. Costs of abatement shall be calculated by multiplying the highest hourly wage of a patrol officer by the number of police officers involved in the response to abate the nuisance activity times the number of hours required by the police officers to abate the nuisance in hourly increments, with a minimum of one hour and include an administrative charge of two hundred dollars or ten percent of the costs of abatement, whichever is greater.
- E. The Chief of Police shall provide notice to the owner of the nuisance property of the City's intent to assess the costs of response and abatement against the owner's property. Such notice shall contain a description of the nuisance activity that is the basis for the notice of intent to assess the property, and the cost to abate. Notice shall be served as set forth in subsection B of this section.
- F. The owner of a nuisance property who receives a notice from the Chief of Police or his designee pursuant to subsection E of this section may request reconsideration of such notice by submitting a written request to the Chief of Police within thirty days of the date of the notice.
 - 1. If, after a timely request for reconsideration is submitted, the Chief of Police finds that the facts presented do not support the assessment of costs, the Chief shall grant the request and rescind the notice. Otherwise, the Chief shall deny the request.
 - 2. The property owner may appeal denial of the request by submitting a written request within thirty days to the Chief of Police for a hearing before the Board of Nuisance Abatement.
 - 3. A request for reconsideration or appeal shall not stay any actions by the City to abate any nuisance activity.
- G. Board of Nuisance Abatement.
 - 1. There is hereby created a Board of Nuisance Abatement which shall consist of the Director of Public Safety or his designee, the Chairperson of the Public Safety Committee of City Council or his designee, and three members of the community at-large, appointed by the Mayor and subject to the approval of the Council. The members of the community at-large shall serve for three years and until a successor is appointed and qualified. Members shall serve without compensation.

2. The Board of Nuisance Abatement shall hear any appeals made in accordance with subsection F of this section.
 3. Hearing of Appeal. In any such appeal, the City must show by a preponderance of the evidence that each violation stated in the notice being appealed has occurred, and that the intent of the City to assess the property for abatement costs is justified. The City shall not have to show that there has been a conviction for a criminal offense to show the existence of a nuisance. The City shall be deemed to have failed to have met this standard if the owner demonstrates by a preponderance of evidence that:
 - a. He was not the owner at the time of any of the nuisance activity that is the basis of the notice; or
 - b. He had knowledge of the nuisance activity, but has promptly and vigorously taken all actions necessary to abate each nuisance including, without limitation, compliance with the requirements of O.R.C. §§ 5321.17(C) and 5321.04(A)(9); or
 - c. He had no knowledge of the nuisance activity and could not, with reasonable care and diligence, have known of the nuisance activity; and upon receipt of the notice of the declaration of the property as a nuisance property, he promptly took all actions necessary to abate the nuisance including, without limitation, compliance with the requirements of O.R.C. §§ 5321.17(C) and 5321.04(A)(9).
 4. Any appeal from a decision of the Board of Nuisance Abatement shall be made pursuant to O.R.C. Chapter 2506.
- H. After final decisions on any requests for reconsideration or further appeals have been issued and the costs to abate have not been paid within thirty days of the notice of such decision, the costs of abatement shall be reported to the Director of Finance, who shall mail a statement of the amount thereof to the owner of the property.
1. If after thirty days such amount remains unpaid, the Director of Finance shall certify the total amount of the expenses, the name of the owner of the land and a sufficient description of the premises to the County Auditor, to be entered on the tax duplicate, to be a lien on the land from the date of entry and to be collected as other taxes and assessments and returned to the city pursuant to O.R.C. §731.54.
- I. The declaration of a nuisance property, an order to abate a nuisance, or the assessment of costs by the city on a property, do not affect or limit the city's right or authority to bring criminal prosecution or other legal action, including nuisance abatement and assessment as provided by law.

Section 3. That Title 13, Chapter 137, “Weapons Control”, Section 137.31 “Sale of fireworks”; and Section 137.32 “Fireworks display permits” are hereby reaffirmed, amended, and/or supplemented, as follows:

137.31 Sale of Fireworks.

- A. No person shall possess for sale at retail, or sell at retail, or discharge, ignite, or explode any fireworks, as defined herein, within the municipality, except as provided in § 137.32. As used in this section, the term "fireworks" means any combustible or explosive compositions, or any substance or combination of substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, but shall not mean or include toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing .25 grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, and toy pistol paper or plastic caps which contain less than .20 grains of explosive mixture.
- B. **No person under the age of eighteen years of age shall discharge, ignite, or explode any fireworks, within the municipality, or other devices in which paper or plastic caps containing**

.25 grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, and toy pistol paper or plastic caps which contain less than .20 grains of explosive mixture of any kind unless in the company of a person at least eighteen years of age.

- C. **No person shall sell fireworks or other devices in which paper or plastic caps containing .25 grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, and toy pistol paper or plastic caps which contain less than .20 grains of explosive mixture of any kind to a person under the age of eighteen years of age.**
- D. Whoever violates this section is guilty of a misdemeanor of the third degree. Penalty, see § 130.99. (R.C. §§ 3743.27, 3743.32).

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare for the reason that amending and/or reaffirming Akron's restrictions and blanket ban on consumer fireworks discharge within the City will allow it to bypass the imposition of certain provisions of H.B. 172 and maintain and/or update its current fireworks regulations; and provided this ordinance receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed June 13, 2022

Wanda R. Buriano
Clerk of Council

Chap Lammulle
President of Council

Approved 6/14, 2022

MAH
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Akron City Council - Uniform Council Report (UCR)

PART I – General Information

Subject of Requested Legislation:

Amended Substitute House Bill 172 ("H.B. 172") - Section 3743.45 (Fireworks)

Department/Division: Fire and APD

Requestor: Chief Tucker

Phone/Ext: 2410

If applicable, previous legislation on this subject (reference by ordinance/resolution number):

Ord. 731-1998, Ord. 291-2013, Ord. 426-1993, Ord. 728-1973, Ord. 728-1973, Ord. 235-2013

Purpose/Objective of Legislation:

Reaffirm current ban on consumer fireworks.

PART II – Financial Information

Does this Legislation directly involve the expenditure of funds?

☐ YES

☒ NO

Was this expenditure budgeted for in the current operating budget?

☐ YES

☐ NO

If "YES," describe how the budgeted amount for the project compares to the actual or estimated costs:

City Expenditures

Budgeted Costs	
Amount:	
Fund:	
Org:	
Acct:	

Estimate of Costs	
Amount:	
Fund:	
Org:	
Acct:	

Amount:	
Fund:	
Org:	
Acct:	

Amount:	
Fund:	
Org:	
Acct:	

City Receipts

City Receipt of Funds	
Amount:	
Fund:	
Org:	
Acct:	

Other Consideration	

Total expenditure (if applicable): \$ _____

Total receipts (if applicable): \$ _____

PART III – DETAILED INFORMATION:

Attach detailed information/documentation, as described in UCR Instruction Sheet.



AKRON POLICE DEPARTMENT

Fireworks-related CFS between 1/1/2012—5/27/2022*



Akron Police Department

Fireworks-related CFS between 1/1/2012 - 5/27/2022*

Month/Year	Call Count
2012	174
Jan	3
Feb	2
Mar	7
Apr	5
May	11
Jun	50
Jul	55
Aug	22
Sep	13
Oct	2
Nov	4
Dec	0
2013	218
Jan	2
Feb	3
Mar	6
Apr	8
May	15
Jun	60
Jul	82
Aug	22
Sep	12
Oct	7
Nov	0
Dec	1
2014	76
Jan	0
Feb	0
Mar	3
Apr	5
May	10
Jun	22
Jul	19
Aug	10
Sep	6
Oct	0
Nov	0
Dec	1
2015	141
Jan	0
Feb	0
Mar	5
Apr	4
May	11
Jun	65
Jul	27
Aug	14
Sep	10
Oct	3
Nov	1
Dec	1

Month/Year	Call Count
2016	116
Jan	2
Feb	1
Mar	5
Apr	1
May	8
Jun	30
Jul	49
Aug	8
Sep	8
Oct	0
Nov	2
Dec	2
2017	134
Jan	0
Feb	3
Mar	2
Apr	1
May	18
Jun	32
Jul	42
Aug	13
Sep	10
Oct	11
Nov	2
Dec	0
2018	111
Jan	3
Feb	1
Mar	1
Apr	5
May	10
Jun	29
Jul	41
Aug	11
Sep	7
Oct	3
Nov	0
Dec	0
2019	166
Jan	2
Feb	1
Mar	0
Apr	3
May	15
Jun	37
Jul	80
Aug	10
Sep	11
Oct	2
Nov	3
Dec	2

Month/Year	Call Count
2020	843
Jan	0
Feb	1
Mar	0
Apr	1
May	11
Jun	491
Jul	288
Aug	21
Sep	17
Oct	7
Nov	2
Dec	4
2021	151
Jan	1
Feb	1
Mar	3
Apr	1
May	21
Jun	61
Jul	43
Aug	6
Sep	4
Oct	3
Nov	2
Dec	5
2022	10
Jan	1
Feb	0
Mar	2
Apr	2
May 27, 2022*	5
Grand Total	2,140

*5/27/2022 is good through 1300 hours



AKRON FIRE DEPARTMENT

Firework-Related Injuries

Year	Direct Injuries	Associated Injuries	Total
2017	2	3	5
2018	3	7	10
2019	1	5	6
2020	4	7	11
2021	1	5	6
Grand Total	11	27	38

Firework Calls for Service

Year	Firework Calls - No Fire	Firework Calls - Fire	Total
2017	4	4	8
2018	8	2	10
2019	9	1	10
2020	9	7	16
2021	7	3	10
Grand Total	37	17	54

Summary Ordinance No. 150-2022 passed by Akron City Council June 13, 2022 reaffirming, amending, and/or supplementing portions of Titles 9, 11, and 13 of the Akron Codified Ordinances in order to effectively reassert the ban on discharging, igniting, or exploding fireworks within the City of Akron; and declaring an emergency.

By: Sara Biviano, Clerk of Council

This summary is being published pursuant to Section 38 of the City Charter. The complete text of this legislation is available in the office of the Clerk of Council.

**posted on Akron City Council website 6/14/22 through 6/30/22*