



# Jefferson City Police Department

*Integrity-Service-Commitment*

Andy Dossett, Chief of Police



## Memorandum

To: Mr. James Gallup, City Manager

From: Andy Dossett, Chief of Police

Date: March 9, 2026

RE: **Nuisance and Damage Caused by Vultures**

Sir,

Concerns and complaints have been lodged for some time now regarding the nuisance, damage, and disturbances caused by our vulture population. The roosting within trees in residential and retail areas continues to result in damage to vehicles, structures, and other properties caused by large amounts of feces deposited by these creatures. Not only is this destructive but it is very likely a health and safety issue as well (USDA Managing Vulture Damage, 2022- attached).

Some dispersal solutions include extermination, vulture effigy, and pyrotechnics. However, vultures are protected by the Migratory Bird Treaty Act which strictly prohibits the killing of these birds unless authorized by the US Department of Agriculture. Subsequently, the discharge of firearms and fireworks are prohibited within the city.

Pyrotechnics may be the most feasible option. Although Jefferson City code prohibits the use of fireworks within the city, some municipalities have made legislative exceptions to that rule. I have attached fireworks ordinances from the cities of New Tazewell, Shelbyville, Winchester, along with the MTAS sample ordinance. You will notice that agriculture, special event, and holiday exceptions are mentioned throughout.

My recommendation is to revise our current ordinance or completely replace it with the MTAS sample ordinance modified to meet our needs, to allow certain pyrotechnics for the dispersal of vultures under the agriculture exception. This should be issued in the form of a permit from the office of the city recorder with prior approval from the fire chief. Consideration must be given to the type of pyrotechnic (audible only vs. projectile), current burn bans, proximity to highly flammable areas, and other safety concerns identified by the fire chief.

100 City Center Drive- Jefferson City- Tennessee- 37760

[www.jeffersoncitytn.gov](http://www.jeffersoncitytn.gov)

Finally, I would suggest the city attorney review these ordinances to determine if, in addition to “agriculture”, wording needs to be added to include non-agricultural property damage (cars, homes, equipment, etc.).

Attached:

MTAS sample ordinance

Fireworks ordinance for the Cities of New Tazewell, Winchester, and Shelbyville

Managing Vulture Damage, USDA

TCA 68-104-108



## Managing Vulture Damage

Vultures play an important role in our ecosystem, feeding mostly on carrion (flesh of dead animals). But as their populations have increased in size and range over the last 30 years, so have conflicts between vultures and people. If you're having problems with vultures, the U.S. Department of Agriculture's (USDA) Wildlife Services can provide information and advice or work onsite to help reduce damage and resolve conflicts.

**Vulture management is complicated and site-specific. Consulting with a wildlife professional is vital to successfully resolving damage.**

### Know Before You Act

Vultures are protected by the Migratory Bird Treaty Act, State laws, and regulations. They are managed by the U.S. Fish and Wildlife Service (part of the U.S. Department of the Interior) and State wildlife agencies. The birds, their nests, and eggs cannot be killed or destroyed without a Migratory Bird Depredation Permit. Individual States and localities may have further restrictions on vulture management. For specific local information, contact your State Wildlife Services office by calling 1-866-4USDA-WS (866-487-3297).

### Types of Vultures

Black and turkey vultures are native to North America. They have bald heads, sharp beaks and nails, and highly acidic stomach liquids and urine. They often form large roosts and loafing areas, numbering from a few dozen to hundreds of birds. Vultures are adaptable and show complex behavior. These features make them excellent scavengers but can also cause damage to property and lead to conflicts with people in agricultural, suburban, and urban settings.



The turkey vulture (left) is the larger of the two species, weighing about 4 pounds with a 6-foot wingspan. The adult has a featherless, bright red head and mostly dark brown/black body feathers. The black vulture (right) weighs less than 4 pounds with a wingspan of less than 5 feet. It is mostly black with a gray head.

### Damage Caused by Vultures

**Property Damage.** Large groups of vultures can roost or occupy woodlots near homes and be destructive. Black vultures often damage buildings by tearing window caulking, roof shingles, vent seals, rubber roof liners, and pool covers. They can damage vehicles by scratching paint, removing rubber seals and wipers, and ripping vinyl seat covers from boats and tractors.

Both black and turkey vultures also affect the quality of life for area residents. The birds' feces and vomit can accumulate, especially on roofs of houses and office buildings, communication towers, and electrical transmission structures. This can lead to arcing and power outages, at great expense to utility companies. It can also hamper maintenance activities around communications towers, impacting the longevity of these structures.

**Agricultural Damage.** Both turkey and black vultures normally feed on animal carcasses. Black vultures, however, may also attack and kill calves, lambs, piglets, adult animals during birthing, and other weak animals.

This predatory behavior often results in serious injury or death to livestock, as vultures target the eyes and soft tissues. In most cases, affected animals must be

ethanized because of their injuries. A 2017 USDA report on cattle and calf losses in the United States reported that vultures were responsible for 10 percent of all calves lost to predators. Before allowing cell towers on their lands, ranchers should be aware that vultures commonly roost on cell or satellite towers.

**Health and Safety Concerns.** Accumulations of feces, as well as vulture roosting and soaring behaviors, create health and safety concerns. Droppings near homes and drinking water sources may pose health concerns for individuals and municipalities. Many people find the white-wash stains of vulture droppings and their associated ammonia odors offensive. Additionally, concentrated vulture populations can be hazardous to aircraft, especially when close to airport flight paths, because of the birds' large size and characteristic soaring behavior. This behavior increases their chances of being struck by low-flying aircraft.

## How We Can Help

Vulture management is complicated and site-specific. Consulting with a wildlife professional is vital to successfully resolving damage. Our Wildlife Services staff can help in many ways. This may include giving information on habitat management or strategies and tools for dispersing vultures from areas of conflict. Our biologists can document vulture damage and start the depredation permit application process when necessary. In some cases, we may enter into cooperative service agreements to resolve these conflicts.

We can also evaluate the damage situation and recommend possible techniques for resolving specific problems. For example, a vulture effigy, hung correctly, may scatter a roost. Sound- and light- devices (i.e., propane cannons or pyrotechnics and lasers) may also be used to disperse vultures, especially at roost locations at night or as birds return to settle for the night. Motion-activated sprinklers and inflatable air dancers may be useful for dispersing vultures from rooftops. We can help you identify and remove or



Vultures have an adaptable nature and show complex behavior. Combined with increasing populations, this leads to a wide range of conflicts.

avoid potential attractants, such as open garbage, dead livestock, and outdoor feeding of domestic or wild animals. In some situations, selective, lethal removal of birds may be needed to resolve damage effectively.

Our recommendations are based in science. Wildlife Services' National Wildlife Research Center (NWRC) conducts research on a wide variety of wildlife damage issues. Scientists at NWRC's Florida field station carry out studies to better understand vulture populations, ecology, and behavior to develop strategies that help minimize property damage, protect agriculture, and relieve health and safety concerns caused by vultures.

## Learn More

For more information about managing vulture damage or other Wildlife Services operations, call your State office at 1-866-4USDA-WS (1-866-487-3297) or go to [www.aphis.usda.gov/wildlife-damage](http://www.aphis.usda.gov/wildlife-damage).

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USDA is an equal opportunity provider, employer, and lender.

Wildlife Services is not the only source of wildlife damage management services available to the public. Private-sector wildlife damage management providers may also be available. Wildlife Services does not endorse or recommend any specific private-sector provider or the use of any specific product over another.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO ADD CHAPTER 4, "FIREWORKS," TO TITLE 7 OF THE CITY OF \_\_\_\_\_ MUNICIPAL CODE.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF \_\_\_\_\_, TENNESSEE, THAT:

Section 1. Chapter 4, "Fireworks," is added to title 7 of the \_\_\_\_\_ Municipal Code to read as follows:

#### CHAPTER 4

#### FIREWORKS

#### SECTION

- 7-401. Definitions.
- 7-402. Permits and permit fees.
- 7-403. Permit revocation.
- 7-404. Permissible fireworks.
- 7-405. Storing and structures.
- 7-406. Limitations on structures.
- 7-407. Location of fireworks outlets.
- 7-408. Parking for retail fireworks sales site.
- 7-409. Additional standards for fireworks retailers.
- 7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks.
- 7-411. Limited time period to use fireworks.
- 7-412. Exemptions.
- 7-413. Violations and penalty.

**7-401. Definitions.** (1) As used in this chapter, unless the content otherwise requires:

(a) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of:

(i) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks", or "Class C Common Fireworks,"

(ii) Theatrical and novelty, classified as 1.4S, or

(iii) Display fireworks, classified as 1.3G, as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, Title 49, Code of Federal Regulations (CFR), Parts 171-180.

- (iv) Exceptions: (A) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(p), and packed and shipped according to those regulations;
- (B) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.
- (C) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.

(b) "Mobile Retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(c) "Permit" means the written authority of the City of \_\_\_\_\_ issued under the authority of this section.

(d) "Person" means any individual, firm, partnership, or corporation.

(e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

(f) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, copartnership, or one (1) or more individual(s),

(g) "State Fire Marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of Tennessee Code Annotated § 68-104-101, et seq

(2) Singular words and plural words used in the singular include the plural and the plural as singular.

**7-402. Permits and permit fees.** (1) It is unlawful for any person to sell or to offer for sale in the City of \_\_\_\_\_ any item of fireworks without first having secured a State Fire Marshal Permit and a Permit issued by the City of \_\_\_\_\_.

(a) Permits are not transferable.

(b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 9 or December 21 through January 5.

(c) The permit fee for retail permits is \$1000 for the summer period and \$500 for the winter period.

(d) The fee for public displays using Special Display (1.3G) Fireworks is five dollars (\$5).

(e) Schools, wedding groups, businesses, and civic clubs that desire to have a 1.3G Special Display or 1.4G Consumer Fireworks display may obtain a permit to use fireworks for any time of the year by paying a \$5 permit fee and obtaining a permit from the City.

(2) A permit to sell fireworks in the City of \_\_\_\_\_ must be obtained at least one week prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The application must include the name, address, and telephone number of applicant.

(b) The applicant must be the natural person who will operate or be responsible for sales.

(c) The applicant's name must be the same as the name on the State Fire Marshal Permit.

(d) The applicant is liable for all violations of this chapter by persons under his/her supervision.

(3) A copy of the State Fire Marshal Permit. (For a state permit to be obtained by a retailer, the Mayor must sign in behalf of the retailer an Application for Fireworks Permit that the state requires before a state permit is issued to a retailer for a specific location.)

(4) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(5) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within 750 feet of a retail structure.

(6) Mobile vendors are not permitted.

(7) Flashing signs are not permitted.

(8) One double-faced sign is permitted; however, each sign face may not exceed thirty-six (36) square feet.

(9) The application must contain evidence that general liability insurance has been obtained by applicant naming the City of \_\_\_\_\_ as additional insured for at least \$2,000,000 for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.

(10) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(11) Applicant shall pay \$100 cleanup deposit per location, which shall be refunded after the fireworks season or used by the city to clean up the retail fireworks site if needed.

(12) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance with applicable codes and ordinances.

**7-403. Permit revocation.** (1) The Codes Director and/or fire official may revoke any permit upon failure of retailer to correct any of the following conditions within thirty six (36) hours after the Codes Director gives written notice.

(a) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the City Codes Director.

(b) When the permittee's application contains any false or untrue statements.

(c) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(d) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

(2) When any activities of the permittee constitute a distinct hazard to life or property, the Codes Director or fire official, or both, may revoke the permit immediately.

**7-404. Permissible fireworks.** (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the City of \_\_\_\_\_, except as provided in this chapter, any "fireworks" as defined in § 7-401(1)(a), other than the following:

(a) Those items classified by the U.S. Department of Transportation as 1.4G Consumer Fireworks, or

(b) Those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

(2) Any display using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician.

**7-405. Storing and structures.** No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks- No Smoking" in letters not less than four (4) inches high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten (10) feet away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use.

**7-406. Limitations on structures.** Tents meeting the current adopted International Building Code and the Life Safety Code (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No structure from which fireworks are sold may exceed 3,200 square feet. Fireworks may not be stored in a permanent building

unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block.

**7-407. Location of fireworks outlets.** Fireworks sales structures must be no closer than 60 feet from any occupied building. Fireworks sales are permissible only on commercial/industrial property as approved by the Planning Department and the sales structure must be located a minimum of 45' from the right of way. Any fireworks sales structure must be at least 150 feet from a residence. Fireworks sales are not allowed on any property where there is an existing retail business that is operated from a building in excess of 125,000 square feet.

**7-408. Parking for retail fireworks sales site.** The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary.

**7-409. Additional standards for fireworks retailers.** (1) Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than 100 feet to any fuel source.

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred and fifty (750) feet from other similar uses. This distance shall be measured in a straight line from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location.

**7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks.** It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated person. It is unlawful to explode or ignite fireworks within six hundred (600) feet of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred (200) feet of where fireworks are stored, sold, or offered for sale. It is unlawful to ignite or discharge any permissible articles of fireworks within or throw them from a motor vehicle. It is unlawful to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons. It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. It is unlawful to launch fireworks onto property of persons who have not given permission. It is unlawful to use fireworks at times, places, or in any manner that endangers other persons. It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the City of \_\_\_\_\_ Fire Department, except for public (and/or group) displays for which permits have been granted.

**7-411. Limited time period to use fireworks.** Limited time period to use fireworks. It is unlawful to discharge or use fireworks except for the following time periods.

(1) July 1 through July 4—The permissible hours are from 10 AM to 10:30 PM except for July 3 when permissible hours are from 10 AM to 11:30 PM.

(2) December 31 and January 1—The permissible hours from 8:00 PM on December 31 to 1:00 PM on January 1.

**7-412. Exclusions.** Nothing in this chapter prohibits:

(1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fusees, automotive, aeronautical, and marine flares and smoke signals.

(3) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(4) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(5) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.

(6) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

(6) Supervised displays of fireworks as provided for in this chapter.

**7-413. Violations and penalties.** Violations of any provision of this chapter shall be subject to a penalty of up to \$50 per violation.

**Section 2.** This ordinance shall take effect from and after its passage, the public welfare requiring it.

Passed 1st reading, \_\_\_\_\_, 20\_\_.

Passed 2nd reading, \_\_\_\_\_, 20\_\_.

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Mayor

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Recorder

**TITLE 7**

**FIRE PROTECTION AND FIREWORKS<sup>1</sup>**

**CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE TOWN LIMITS.
5. FIREWORKS.

**CHAPTER 1**

**FIRE DISTRICT**

**SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The corporate fire limits shall be and include all that area defined and described as corporate limits in the town's zoning ordinance.<sup>2</sup> (1998 Code, § 7-101, modified)

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<sup>1</sup>Municipal code reference

Building, utility and residential codes: title 12.

<sup>2</sup>The zoning ordinance and map, and any amendments thereto, are available in the office of the recorder.

## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Variances.
- 7-207. Violation and penalty.

**7-201. Fire code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code,<sup>2</sup> 2006 edition, as prepared and adopted by the International Code Council is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been filed with the recorder and is available for public use and inspection. Said fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1998 Code, § 7-201, as amended by Ord. #254, Sept. 2006, modified)

**7-202. Enforcement.** The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1998 Code, § 7-202, modified)

**7-203. Definition of "municipality."** Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the Town of New Tazewell, Tennessee. (1998 Code, § 7-203, modified)

**7-204. Storage of explosives, flammable liquids, etc.** The limits referred to in the fire code, in which storage of explosives and blasting agents is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

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<sup>1</sup>Municipal code reference

Building, utility and residential codes: title 12.

<sup>2</sup>Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

The limits referred to in the fire code, in which storage of flammable liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in the fire code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in the fire code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. (1998 Code, § 7-204, modified)

**7-205. Gasoline trucks.** No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1998 Code, § 7-205)

**7-206. Variances.** The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1998 Code, § 7-206, modified)

**7-207. Violation and penalty.** Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

## CHAPTER 3

### FIRE DEPARTMENT<sup>1</sup>

#### SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training.
- 7-307. Chief to be assistant to state officer.

**7-301. Establishment, equipment, and membership.** There is hereby established a joint fire department to be supported and equipped from appropriations by the Boards of Mayor and Aldermen of the Towns of Tazewell and New Tazewell. The appropriations shall be paid over to and administered by a fire department committee composed of five (5) members (two (2) from the Tazewell Board of Mayor and Aldermen, two (2) from the New Tazewell Board of Mayor and Aldermen, and the fire chief) for the exclusive use of the fire department. Board members of the fire department committee shall serve at the will and pleasure of the mayor appointing them. The committee shall provide for its organization, shall adopt its own by-laws, and shall keep complete minutes of all its meetings. All apparatus, equipment and supplies shall be purchased by the fire department committee for the towns, in accordance with the annual budget approved by the Boards of Mayor and Aldermen of Tazewell and New Tazewell, and shall be and remain the joint property of Tazewell and New Tazewell. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and firemen as the fire department committee shall appoint or authorize. (1998 Code, § 7-301)

**7-302. Objectives.** The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1998 Code, § 7-302)

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<sup>1</sup>Municipal code reference

Special privileges with respect to traffic: title 15, chapter 2.

**7-303. Organization, rules, and regulations.** The chief of the fire department, subject to the approval of the fire department committee, shall set up the organization of the fire department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1998 Code, § 7-303)

**7-304. Records and reports.** The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on such matters to the fire department committee as the latter may require. The fire department committee shall make such reports to the boards of mayor and aldermen of Tazewell and New Tazewell as the respective boards may from time to time require. (1998 Code, § 7-304)

**7-305. Tenure and compensation of members.** All members of the fire department shall serve only so long as their conduct and efficiency are satisfactory to the fire department committee. They shall receive such compensation for their services as the committee may from time to time prescribe. (1998 Code, § 7-305)

**7-306. Chief responsible for training.** The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department under direction and subject to the requirements of the fire department committee. (1998 Code, § 7-306, modified)

**7-307. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1998 Code, § 7-307, modified)

## CHAPTER 4

### FIRE SERVICE OUTSIDE TOWN LIMITS

#### SECTION

7-401. Equipment to be used only within corporate limits except when answering a mutual aid agreement call from another agency.

**7-401. Equipment to be used only within corporate limits except when answering a mutual aid agreement call from another agency.** No equipment of the Tazewell-New Tazewell Fire Department shall be used for fighting any fire outside of the corporate limits of either town unless the fire is on town property, or in the opinion of the chief of the fire department is in such hazardous proximity to property owned by or located within the town as to endanger the town property. (Ord. #202, Aug. 1999, modified)

## CHAPTER 5

### FIREWORKS

#### SECTION

- 7-501. Purpose.
- 7-502. Definition of terms.
- 7-503. Permits required for sale.
- 7-504. Permissible items of fireworks.
- 7-505. Conditions for sale and use of permissible articles.
- 7-506. Public displays--permits--regulations.
- 7-507. Retail sales of permissible articles--time limitations--exceptions.
- 7-508. Private use of permissible articles--time limitations--exceptions.
- 7-509. Regulations governing storing, locating or display of fireworks.
- 7-510. Unlawful acts in the sale and handling of fireworks.
- 7-511. Exceptions to application.
- 7-512. Seizure and destruction of fireworks.
- 7-513. Requirements or compliance with state regulations not affected.
- 7-514. Violation and penalty.

**7-501. Purpose.** The purpose of this chapter is to provide for the display, sale and use of certain fireworks for both private and public display within the corporate limits of the Town of New Tazewell, Tennessee within certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (1998 Code, § 7-501)

**7-502. Definition of terms.** As used in this chapter the following terms shall have the meaning ascribed to them in this section unless clearly indicated otherwise.

(1) "Distributor." Any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a jobber, wholesaler or retailer.

(2) "DOT Class C Common fireworks." Shall mean all articles of fireworks as are now or hereafter classified as "DOT Class C Common fireworks" in the regulation of the United States Department of Transportation for the transportation of explosive and other dangerous articles.

(3) "Jobber." Any person engaged in the business of making sales of fireworks to bona fide tourists for use outside the State of Tennessee.

(4) "Manufacturer." Any person engaged in making, manufacture, or construction of fireworks of any type within the Town of New Tazewell or the State of Tennessee.

(5) "Permit." A permit is the written authority of the state fire marshal issued under the authority of Tennessee Code Annotated, §§ 68-104-101--68-104-116.

(6) "Person." Includes any corporation, association, co-partnership or one (1) or more individuals.

(7) "Retailer." Any person engaged in the business of making sales of fireworks to consumers.

(8) "Sale." An exchange of articles of fireworks for money and also includes barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal, proprietor, salesman, agent, association, co-partnership, or one (1) or more individuals.

(9) "Singular" and "plural." Words used in the singular include the plural and the plural the singular.

(10) "Special fireworks." Shall mean all articles of fireworks that are classified as Class B explosives in the regulation of the United States Department of Transportation and shall include all articles other than those classified as Class C explosives.

(11) "Wholesaler." Any person engaged in the business of making sales of fireworks to any other person engaged in the business of making sales at retail. (1998 Code, § 7-502, modified)

**7-503. Permits required for sale.** It shall be unlawful for any person to sell, offer for sale, ship or cause to be shipped into or within the Town of New Tazewell, except as herein provided, any item of fireworks, without first having secured the required applicable permit from the recorder and also from the state fire marshal, possession of said permit being hereby a condition prerequisite to selling, or offering for sale, shipping or causing to be shipped any fireworks into or within the Town of New Tazewell, except as herein provided. This provision applies to non-residents as well as residents of the Town of New Tazewell. Permits issued under this section are not transferable, nor shall a person be permitted to operate under a permit issued to any other person.

(1) Prior to engaging in the sale within the Town of New Tazewell, Tennessee, or shipment into the Town of New Tazewell, of any fireworks each person must make application on forms secured from the recorder and the state fire marshal for a permit or permits required under this chapter.

(2) The manufacture or bulk storage (storage other than limited amounts incidental to permitted retail sales or public display) of fireworks within the corporate limits of the Town of New Tazewell is prohibited, and a violation of this section is unlawful and punishable under the provision of this chapter or the applicable state code.

(3) The decision of the recorder as to what type of permit or permits shall be required of each person shall be final. No permit shall be issued to a person under the age of eighteen (18) years.

(4) In addition to charges for permits authorized to the state fire marshal for state permits, the recorder is authorized and directed to charge for permits issued as follows: Wholesalers ten dollars (\$10.00); retailer ten dollars

(\$10.00); display ten dollars (\$10.00) and deposit these funds into the general fund accounts.

(5) A record of all sales, other than retail sales directly to private consumers, must be kept showing the names and address of purchasers. All fees collected for said permits shall be payable directly to the general fund of the town and shall constitute general fund revenue. (1998 Code, § 7-503, modified)

**7-504. Permissible items of fireworks.** It shall be unlawful for any individual, firm, partnership, or corporation to possess, sell, or use within the Town of New Tazewell, or ship into the Town of New Tazewell except as provided in § 7-506, any pyrotechnics, commonly known as "fireworks," other than the following permissible items:

(1) Those items now or hereafter classified as DOT Class C common fireworks; or

(2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations. (1998 Code, § 7-505, modified)

**7-505. Conditions for sale and use of permissible articles.** No permissible articles of common fireworks defined in Tennessee Code Annotated, § 68-104-108, shall be sold, offered for sale, or possessed within the town, or used in the Town of New Tazewell except as herein provided for public display, unless it shall be properly named to conform to the nomenclature of Tennessee Code Annotated, § 68-104-108, and unless it is certified as "common fireworks" on all shipping cases and by imprinting on the article or retail container, "DOT Class C Common fireworks," such imprinting to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities, and the general public. The Fire Marshal of the State of Tennessee regulations relative to the possession and sale of fireworks, their storage and safety requirements, are here and now incorporated by reference herein, together with the National Fire Protection Association (NFPA 1124), and the fire code, all in full force and effect within the town. (1998 Code, § 7-506, modified)

**7-506. Public displays--permits--regulations.** The public display of fireworks within the corporate limits of the Town of New Tazewell shall be governed by the provisions of Tennessee Code Annotated, § 68-104-211. Required permits for the controlled, public display of fireworks shall be obtained from the state fire marshal and also from the town fire chief and the town chief of police. (1998 Code, § 7-507, modified)

**7-507. Retail sale of permissible articles--time limitations--exceptions.** Permissible items of fireworks, defined in Tennessee Code Annotated, § 68-104-108, may be sold at retail and used within the Town of New

Tazewell from June 20th through July 5th, from August 25th through September 10th, and from December 10th through January 10th of each year only, except that the term "fireworks" shall not include toy pistols, toy cannons, toy guns, or other devices in which paper caps containing twenty-five hundredth (25/100th) 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 exploding, and toy paper pistol caps which contain less than twenty-five hundredth (25/100th) grains of explosive compounds, cone, bottles, tube and other type serpentine pop-off novelties, model rockets, nonpoisonous toy snakes, smoke sticks with report and sparklers, emergency flares, and matches, the sale and use of which shall be permitted at all times. (1998 Code, § 7-508, modified)

**7-508. Private use of permissible articles--time limitations--exceptions.** Permissible items of fireworks, defined in Tennessee Code Annotated, § 68-104-108, may be stored, used and expended within the Town of New Tazewell by private citizens for their personal use and enjoyment during the periods June 20th through July 5th, from August 25th through September 10th, and from December 10th through January 10th of each year under the following restrictions.

(1) Permitted fireworks shall not be ignited, exploded, or otherwise used in an area or location of the town whereby persons or property may be endangered.

(2) Permitted fireworks shall be ignited, exploded, or otherwise used within six hundred feet (600') of any business or storage area whereas or wherein flammable materials are sold, used or stored.

(3) Permitted fireworks may be ignited, exploded, or otherwise used during the hours of 10:00 A.M. to 12:00 midnight, daily during the permitted periods.

(4) Small children, those under the age of ten (10) years, shall be supervised by adults when using permitted fireworks.

(5) If the use of permitted fireworks in a specific area of the town becomes a public nuisance or endangerment to private or public property in the opinion of the town fire chief or the town chief of police, these officials or their authorized representatives are authorized and directed to prohibit said use therein or thereat. (1998 Code, § 7-509)

**7-509. Regulations governing storing, locating or display of fireworks.** (1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten feet (10') of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks--No Smoking" in letters not less than four inches (4") high. No fireworks shall be sold at retail at any location where

paints, oils or varnishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any other person or property.

(2) All firework devices that are readily accessible to handling by consumers or purchasers, must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision.

(3) All firework devices sold under a duly issued permit must be located not less than three hundred feet (300') from any gasoline dispensing pump.

(4) As permits are temporary for a period not to exceed thirty (30) days, the permit shall state any sales site must be at all times free from litter and debris, including the termination date of authorized selling periods. Violation of this provision, for which citation may issue, may give cause to refuse issuance of another permit for a period not to exceed three (3) years.

**7-510. Unlawful acts in the sale and handling of fireworks.** It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of ten (10) years, or to any intoxicated or irresponsible person. It shall be unlawful to explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school, or within five hundred feet (500') of where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within, or throw the same from a motor vehicle while within; nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of persons. (1998 Code, § 7-511, modified)

**7-511. Exceptions to application.** Nothing in this chapter shall be constructed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or of the State of Tennessee or to the peace officers of the town or of the state, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser shall first secure a written permit to purchase and use fireworks for agricultural purposes only from the recorder, and the state fire marshal, and after approval of the County Agricultural Agent of Claiborne County, Tennessee, and said fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the town and the state. (1998 Code, § 7-512, modified)

**7-512. Seizure and destruction of fireworks.** Pursuant to Tennessee Code Annotated, § 68-104-115(a) the town fire chief shall seize as contraband, any fireworks other than "Class C common fireworks" as defined in § 7-505 hereof, and Tennessee Code Annotated, § 68-104-108, or "special fireworks" for public displays as provided in § 7-507 of this chapter and Tennessee Code Annotated, § 68-104-211, which are sold, displayed, used or posed in violation of this chapter. After notice and hearing pursuant to Tennessee Code Annotated, § 68-104-115(b), the town fire chief is authorized to destroy any fireworks. (1998 Code, § 7-514, modified)

**7-513. Requirements or compliance with state regulations not affected.** This chapter shall in no way affect the validity of any law or regulation promulgated by the State of Tennessee or by the fire marshal thereof, as relates to the control and regulations of the manufacture, sale or use of fireworks within the State of Tennessee. It is the intent of this chapter to authorize the public display, sale and use of such fireworks within the corporate limits of the Town of New Tazewell in accordance with the applicable state regulations, as augmented by the rules and regulations of the Town of New Tazewell. (1998 Code, § 7-515)

**7-514. Violation and penalty.** Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense. (1998 Code, § 7-513, modified)

TITLE 7

FIRE PROTECTION, FIREWORKS AND EXPLOSIVES

CHAPTER

1. MISCELLANEOUS PROVISIONS.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIREWORKS.

CHAPTER 1

MISCELLANEOUS PROVISIONS

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be and include all the territory within the following described boundary:

BEGINNING in the center line of North Brittain Street where the same intersects the center line of the right-of-way of Nashville, Chattanooga, St. Louis Railway, designated on the official Tennessee Inspection Bureau maps as "Jackson Street," and running thence with the center of North Brittain Street in a northerly direction to a point in said center line 200 feet north of the center line of Madison Street; thence in a westerly direction, parallel to and 200 feet north of the center line of Madison Street, to a point of the center line of North Main Street; running thence in a westerly direction parallel to and 200 feet north of the center line of Elm Street to a point in the center of North Spring Street where the same intersects with Elm Street, said point being 200 feet north of Elm Street and the intersection of North Spring Street; thence with the center line of North Spring Street in a southerly direction to the center line of West Franklin Street; thence in a westerly direction of Franklin Street to a point 200 feet west of the intersection of West Franklin Street and Atkinson Street; thence in a southerly direction 200 parallel to and 200 feet west of the center line of Atkinson Street to a point on the north bank of Duck River near the bridge; thence with the north bank of Duck River with its meanders to a point of said river where a perpendicular extension of Elliott Street meets said river; thence with such perpendicular extension of the center line of Elliott Street to a point in the center of South Jefferson Street; thence running in a northerly direction of the center line of South Jefferson Street to the center point of the intersection of South Jefferson Street with East McGrew Street; thence on easterly direction with a perpendicular extension of the center line of East McGrew Street to the center of spur track of the Nashville, Chattanooga, St.

Louis Railway; thence with the center line of said spur track in a northeasterly direction to a point in the center of Deery Street, where the same intersects East Depot Street; thence in a northerly direction with the center line of Deery Street to its intersection with the center line of East Jackson Street; thence in a westerly direction with the center line of East Jackson Street; to the center line of north Brittain Street and the point of beginning. (1979 code, § 7-101)

CHAPTER 2

FIRE CODE<sup>1</sup>

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Modifications.
- 7-207. Special requirements for construction not properly set back in certain zones.
- 7-208. Substitution of new construction materials for those prescribed.
- 7-209. Permit required for burning trash, leaves, etc.
- 7-210. Violations.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, sections 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code, 2006 edition, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Shelbyville Code be adopted. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been filed with the city recorder and is available for public use and inspection. The fire code, is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (as amended by Ord. #537, Dec. 1995, modified; Ord. #647, Sept. 2000; Ord. #750, Sept. 2004; and Ord. #889, Nov. 2010)

7-202. Enforcement. The fire prevention code herein adopted shall be enforced by the fire chief and members of the fire department of the city operating under his supervision and direction, and wherever reference is made in said code to the bureau of fire prevention, this reference shall be construed to refer to the fire chief and members of the fire department of the city operating under his direction and supervision. (1979 code, § 7-202)

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<sup>1</sup>Municipal code reference

Building, utility, and housing codes: title 4.

Life safety code: § 4-1201.

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of Shelbyville. (1979 code, § 7-203)

7-204. Storage of explosives, flammable liquids, etc. The limits referred to in the section of the fire prevention code, in which storage of explosives and blasting agents is prohibited, are hereby declared to be the fire limits as set out in section 7-101 of this code.

The limits referred to in the section of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in section 7-101 of this code.

The limits referred to in the section of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in section 7-101 of this code.

The limits referred to in the section of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in section 7-101 of this code. (1979 code, § 7-204)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1979 code, § 7-205)

7-206. Modifications. The chief of the fire department may recommend to the city council modifications of the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code and all state laws shall be observed, public safety secured, and substantial justice done. The particulars of such modifications or exceptions when granted or allowed shall be contained in an amendment to this code or a resolution of the city council. (1979 code, § 7-206)

7-207. Special requirements for construction not properly set back in certain zones. All proposed construction not within the fire limits but within a C-1 or I-1 zone as shown on the zoning map of the city and which is not set back a minimum of ten (10) feet from each boundary line shall be required to have a twelve (12) inch masonry fire wall, with a three (3) foot parapet above the roof. (1979 code, § 7-209)

7-208. Substitution of new construction materials for those prescribed. Any material for the purpose of construction may be used within the fire limits if such material is acceptable to the Tennessee Inspection Bureau of the State of Tennessee and is not prohibited under the building code of the City of

Shelbyville. The purpose of this section is to permit the use of similar or like material to the material prescribed for use within the fire limits which may now be on the general market or which may from time to time come on the market, with the condition that prior written acceptance of the substitute material is obtained from the Tennessee Inspection Bureau, State of Tennessee, and similar approval is obtained from the building inspector of the City of Shelbyville. (1979 code, § 7-210)

7-209. Permit required for burning trash, leaves, etc. No person shall burn or cause to be burned any trash, lumber, leaves, straw or any other combustible material within the City of Shelbyville without a permit from the city fire marshal. Such burning shall be done in screened metallic receptacles approved by the fire marshal and under such proper safeguards as he may direct. (1979 code, § 7-211)

7-210. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the city code shall not be held to prevent the enforced removal of prohibited conditions. (1979 code, § 7-212)

## CHAPTER 3

FIRE DEPARTMENT<sup>1</sup>

## SECTION

- 7-301. Establishment and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure, suspensions, and compensation of members.
- 7-306. Chief responsible for training.
- 7-307. Equipment to be used only within corporate limits.
- 7-308. Chief to be assistant to state officer.

7-301. Establishment and membership. There is hereby established a fire department as a division of the department of public safety. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and firemen as the city manager shall appoint. (1979 code, § 7-301)

7-302. Objectives. The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1979 code, § 7-302)

7-303. Organization, rules, and regulations. (1) The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department.

(2) The city manager and the fire chief are hereby authorized and directed to: (a) classify by rank or grade all fire department personnel and prescribe minimum qualifications for all employees within the respective classifications so established; (b) to promulgate and recommend minimum and maximum salaries within each classification and promotion policies for

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<sup>1</sup>For related provisions see the city's charter, particularly article XVII. For special provisions with respect to traffic, see title 9, chapter 1, in this code.

employees within the minimum and maximum salary schedules suggested; (c) to promulgate rules and regulations with respect to hours of work and annual and sick leave for all such employees; and (d) to promulgate rules and regulations with respect to employment policies, discipline, and discharge of all such employees.

(3) The recommendations of the city manager in cooperation with the fire chief shall be submitted from time to time to the council for its approval, and upon approval by the council shall constitute, to the extent that such recommendations are applicable, the administrative policy of the department. (1979 code, § 7-303)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the director of public safety and the city manager once each month, and at the end of the year a detailed annual report shall be made. (1979 code, § 7-304)

7-305. Tenure, suspensions, and compensation of members. The chief and all firemen shall serve so long as their conduct and efficiency are satisfactory to the city manager. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend temporarily any member of the fire department when he deems such action to be necessary for the good of the department. Any suspended member shall have the right to appeal to the city manager whose decision on such action shall be final. The city manager may hold such hearings as he deems necessary and may administer oaths, secure the attendance of witnesses, and order the production of such books, records, and papers as he deems necessary for a proper hearing.

All personnel of the fire department shall receive such compensation for their services as the city council may from time to time prescribe. (1979 code, § 7-305)

7-306. Chief responsible for training. The chief of the fire department shall be fully responsible for the training of the firemen, and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1979 code, § 7-306)

7-307. Equipment to be used only within corporate limits. No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless expressly authorized by the city council in writing. (1979 code, § 7-307)

7-308. Chief to be assistant to state officer. Pursuant to requirements of section 68-17-108 of the Tennessee Code Annotated, the chief of the fire department is designated as an assistant to the state commissioner of insurance

and banking and is subject to all the duties and obligations imposed by chapter 17 of title 68 of said Tennessee Code Annotated, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1979 code, § 7-308)

CHAPTER 4

FIREWORKS

SECTION

- 7-401. Definitions.
- 7-402. Permits and permit fees.
- 7-403. Permit revocation.
- 7-404. Permissible fireworks.
- 7-405. Storing and structures.
- 7-406. Limitations on structures.
- 7-407. Location of fireworks outlets.
- 7-408. Parking for retail fireworks sales site.
- 7-409. Additional standards for fireworks retailers.
- 7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks.
- 7-411. Limited time period to use fireworks.
- 7-412. Exemptions.
- 7-413. Violations and penalties.

7-401. Definitions. (1) As used in this chapter, unless the content otherwise requires:

(a) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of:

(i) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks," or "Class C Common Fireworks";

(ii) Theatrical and novelty, classified as 1.4G; or

(iii) Display fireworks, classified as 1.3G, as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, title 49, Code of Federal Regulations (CFR), parts 171-180;

(iv) Exceptions:

(A) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(p), and packed and shipped according to those regulations;

(B) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;

(C) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.

(b) "Mobile retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(c) "Permit" means the written authority of the city issued under the authority of this section.

(d) "Person" means any individual, firm, partnership, or corporation.

(e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

(f) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, co-partnership, or one (1) or more individual(s).

(g) "State fire marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of Tennessee Code Annotated, § 68-104-101, et seq.

(2) Singular words and plural words used in the singular include the plural and the plural as singular. (as added by Ord. #879, Nov. 2009)

7-402. Permits and permit fees. (1) It is unlawful for any person to sell or to offer for sale in the City of Shelbyville any item of fireworks without first having secured a state fire marshal permit and a permit issued by the City of Shelbyville.

(a) Permits are not transferable.

(b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 9 or December 21 through January 5.

(c) The permit fee for retail permits is one thousand dollars (\$1,000.00) for the summer period and five hundred dollars (\$500.00) for the winter period.

(d) The fee for public displays using special display (1.3G) fireworks is five dollars (\$5.00).

(e) Schools, wedding groups, businesses, and civic clubs that desire to have a 1.3G Special Display or 1.4G Consumer Fireworks display may obtain a permit to use fireworks for any time of the year by paying a five dollar (\$5.00) permit fee and obtaining a permit from the city.

(2) A permit to sell fireworks in the City of Shelbyville must be obtained at least one (1) week prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The application must include the name, address, and telephone number of applicant.

(b) The applicant must be the natural person who will operate or be responsible for sales.

(c) The applicant's name must be the same as the name on the state fire marshal permit.

(d) The applicant is liable for all violations of this chapter by persons under his/her supervision.

(3) A copy of the state fire marshal permit. (For a state permit to be obtained by a retailer, the mayor must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)

(4) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(5) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.

(6) Mobile vendors are not permitted.

(7) Flashing signs are not permitted.

(8) One (1) double-faced sign is permitted; however, each sign face may not exceed thirty-six (36) square feet.

(9) The application must contain evidence that general liability insurance has been obtained by applicant naming the City of Shelbyville as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.

(10) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(11) Applicant shall pay a one hundred dollar (\$100.00) cleanup deposit per location, which shall be refunded after the fireworks season or used by the city to clean up the retail fireworks site if needed.

(12) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance with applicable codes and ordinances. (as added by Ord. #879, Nov. 2009)

7-403. Permit revocation. (1) The codes director or fire official may revoke any permit upon failure of retailer to correct any of the following conditions within thirty-six (36) hours after the codes director gives written notice:

(a) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city codes director.

(b) When the permittee's application contains any false or untrue statements.

(c) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(d) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

(2) When any activities of the permittee constitute a distinct hazard to life or property, the codes director or fire official, or both, may revoke the permit immediately. (as added by Ord. #879, Nov. 2009)

7-404. Permissible fireworks. (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the City of Shelbyville, except as provided in this chapter, any "fireworks" as defined in § 7-401(1)(a), other than the following:

(a) Those items classified by the U.S. Department of Transportation as 1.4G Consumer Fireworks; or

(b) Those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

(2) Any display using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician. (as added by Ord. #879, Nov. 2009)

7-405. Storing and structures. No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks - No Smoking" in letters not less than four inches (4") high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one (1) pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten feet (10') away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use. (as added by Ord. #879, Nov. 2009)

7-406. Limitations on structures. Tents meeting the current adopted International Building Code and the Life Safety Code (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No structure from which fireworks are sold may exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and

is constructed of non-flammable materials such as metal or concrete block. (as added by Ord. #879, Nov. 2009)

7-407. Location of fireworks outlets. Fireworks sales structures must be no closer than sixty feet (60') from any occupied building. Fireworks sales are permissible only on commercial/industrial property as approved by the planning department and the sales structure must be located a minimum of forty-five feet (45') from the right-of-way. Any fireworks sales structure must be at least one hundred fifty feet (150') from a residence. Fireworks sales are not allowed on any property where there is an existing retail business that is operated from a building in excess of one hundred twenty-five thousand (125,000) square feet. (as added by Ord. #879, Nov. 2009)

7-408. Parking for retail fireworks sales site. The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary. (as added by Ord. #879, Nov. 2009)

7-409. Additional standards for fireworks retailers. (1) Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source.

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred fifty feet (750') from other similar uses. This distance shall be measured in a straight line from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location.

(3) Each retailer must provide for each site toilet facilities for the retailer's employees.

(4) Each retailer must conspicuously post a sign notifying the public of the requirements of §§ 7-410, 7-411, and 7-413 of this chapter. Such signs shall not exceed six (6) square feet in size and shall not contain advertising.

(5) Each retailer shall provide adequate generators, which shall be placed no closer than ten feet (10') from any tent or structure, and protected from rain. (as added by Ord. #879, Nov. 2009)

7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks. It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated person. It is unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred feet (200') of where

fireworks are stored, sold, or offered for sale. It is unlawful to ignite or discharge any permissible articles of fireworks within or throw them from a motor vehicle. It is unlawful to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons. It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. It is unlawful to launch fireworks onto property of persons who have not given permission. It is unlawful to use fireworks at times, places, or in any manner that endangers other persons. It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the City of Shelbyville Fire Department, except for public (and/or group) displays for which permits have been granted. (as added by Ord. #879, Nov. 2009)

7-411. Limited time period to use fireworks. It is unlawful to discharge or use fireworks except for the following time periods.

(1) July 1 through July 4. The permissible hours are from 10:00 A.M. to 10:30 P.M., except for July 3, when permissible hours are from 10:00 A.M. to 11:30 P.M.

(2) December 31 and January 1. The permissible hours from 8:00 P.M. on December 31 to 1:00 A.M. on January 1. (as added by Ord. #879, Nov. 2009)

7-412. Exclusions. Nothing in this chapter prohibits:

(1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fuses, automotive, aeronautical, and marine flares and smoke signals.

(3) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(4) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(5) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.

(6) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

(7) Supervised displays of fireworks as provided for in this chapter. (as added by Ord. #879, Nov. 2009)

7-413. Violations and penalties. Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) per violation. (as added by Ord. #879, Nov. 2009)

TITLE 7

FIRE PROTECTION AND FIREWORKS<sup>1</sup>

CHAPTER

1. FIRE DISTRICTS.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. MISCELLANEOUS.
5. FIREWORKS.

CHAPTER 1

FIRE DISTRICTS<sup>2</sup>

SECTION

- 7-101. First fire district.  
7-102. Second fire district.

7-101. First fire district. All of the property now or hereafter zoned for commercial and industrial uses is hereby declared to be the first fire district of the city, and shall be the fire district referred to in Chapter 30 of the Standard Building Code, 1991 edition. (1983 Code, § 7-101, modified)

7-102. Second fire district. The second fire district shall embrace all of the territory within the city lying without the boundaries set out in section 7-101 above. (1983 Code, § 7-102)

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<sup>1</sup>Municipal code reference

Building, utility and housing code: title 12.

<sup>2</sup>The significance of the fire district is that Chapter 30 of the Standard Building Code, applicable to the City of Winchester through title 12 of this code, imposes certain construction, modification and other requirements peculiar to buildings located within the fire district, and prohibits Hazardous (Group H) occupancies within the fire district. Chapter 4, Section 408 of the Standard Building Code defines Hazardous (Group H) occupancy in both general and specific terms, but generally it refers to occupancies involving highly combustible, flammable or explosive materials.

CHAPTER 2

FIRE CODE<sup>1</sup>

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Electrical wiring installed in first fire district.
- 7-206. Modifications.
- 7-207. Appeals.
- 7-208. Violations and penalty.

7-201. Fire code adopted. (1) Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Fire Code,<sup>2</sup> 2006 edition and the NFPA 101 Life Safety Code, 2006 edition have been filed with the city clerk.

(2) Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Fire Code, 2006 edition and one (1) copy of the NFPA 101 Life Safety Code,<sup>3</sup> 2006 edition has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #597, Apr. 1989, modified, as amended by Ord. #729, June 1998, modified, and replaced by Ord. #922, Oct. 2010)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the Winchester Fire Department through its appointed designee who shall have the same powers as the state fire marshal. (1983 Code, § 7-202, as replaced by Ord. #699, April 1996)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the code herein adopted, it shall be held to mean the City of Winchester, Tennessee. (1983 Code, § 7-203)

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<sup>1</sup>Municipal code reference  
Building, utility and housing codes: title 12.

<sup>2</sup>Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

<sup>3</sup>Copies of this code are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269.

7-204. Storage of explosives, flammable liquids, etc. (1) The district referred to in section 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the first fire district as set out in section 7-101 of this code.

(2) The district referred to in section 902.1.1 of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, is hereby declared to be the first fire district as set out in section 7-101 of this code.

(3) The district referred to in section 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the first fire district as set out in section 7-101 of this code.

(4) The district referred to in section 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the first fire district as set out in section 7-101 of this code. (1983 Code, § 7-204, modified)

7-205. Electrical wiring installed in first fire district. All electrical wiring installed within the fire district shall meet all applicable codes adopted by the governing body. All electrical wiring installed within the first fire district of the city shall be encased in conduit.<sup>1</sup> (1983 Code, § 7-205, as amended by Ord. #699, April 1996)

7-206. Modifications. (1) Definitions. Whenever in the International Fire Code and the NFPA 101 Life Safety Code, 2006 edition, reference is made to the duties of a certain official named therein, that designated official of the City of Winchester, who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Building Code are concerned.

(2) Permit fees. The schedule of permit fees shall be as determined by the Council of the City of Winchester, Tennessee by ordinance from time to time. A copy of such fees shall be available in the office of the city recorder. (1983 Code, § 7-206, as replaced by Ord. #699, April 1996, and Ord. #922, Oct. 2010)

7-207. Appeals. Whenever the appointed designee of the fire department disapproves an application or refuses to grant a permit applied for under section 7-206 above, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal that decision to the fire chief. If at the end of thirty (30) days a satisfactory resolution has not been met, the applicant may continue the appeal to the Winchester City Council at the next regularly scheduled council meeting. The decision of the city council shall be

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

final and binding. (1983 Code, § 7-207, as replaced by Ord. #699, April 1996, and amended by Ord. #824, July 2004)

7-208. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Fire Code, 2006 edition and the NFPA 101 Life Safety Code, 2006 edition as herein adopted by reference. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. Remedial fines and penalties may be assessed to bring violations into compliance after legal notice. (1983 Code, § 7-208, as replaced by Ord. #699, April 1996, and Ord. #922, Oct. 2010)

CHAPTER 3

FIRE DEPARTMENT<sup>1</sup>

SECTION

7-301. Created; purpose.

7-302. Firefighters subject to chain of command within the fire department.

7-303. Duties of fire department personnel.

7-304. Members.

7-305. Equipment.

7-306. Traffic regulations.

7-307. Maliciously causing false alarms.

7-301. Created; purpose. A department known as the Winchester Fire Department, the object of which shall be the prevention of fire and the protection of life and property within the limits of the city, is hereby created. (1983 Code, § 7-301)

7-302. Firefighters subject to chain of command within the fire department. The fire department shall consist of a chief, who shall supervise all fire department personnel, and such other assistants and personnel as deemed necessary by the city council. (1983 Code, § 7-302, as amended by Ord. #559, Jan. 1986; Ord. #699, April 1996; and Ord. #824, July 2004)

7-303. Duties of fire department personnel. Duties of the fire department personnel shall be assigned by the fire chief, or his designated assistants. Job descriptions for the fire department personnel shall be developed and under the custodial supervision of the city administrator. (1983 Code, § 7-303, as replaced by Ord. #699, April 1996, and amended by Ord. #824, July 2004)

7-304. Members. (1) Each member of the department shall be issued a badge designating his rank.

(2) Recommendations of apparatus and equipment. Recommendations of apparatus and equipment shall be made by the fire chief. The fire chief shall make requests for purchase in such manner as may be designated by the city council.

(3) All regularly appointed members of the department are hereby given the necessary special police powers for the purpose of enforcing the provisions of this article. (1983 Code, § 7-304, as amended by Ord. #559, Jan. 1986, and Ord. #824, July 2004)

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<sup>1</sup>Municipal code reference

Department of Safety oversees the Fire department, see section 6-101.

7-305. Equipment. (1) The department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.

(2) All equipment of the department shall be safely and conveniently housed in such places as may be designated by the city council. Such places shall be heated during the winter season.

(3) Suitable arrangements or equipment shall be provided for citizens to turn in an alarm, and for notifying all members of the department so that they may promptly respond.

(4) No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the department.

(5) No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by, or having the special permission of, an officer or authorized member of the department. (1983 Code, § 7-305, as amended by Ord. #699, April 1996, and Ord. #824, July 2004)

7-306. Traffic regulations. (1) All motor equipment and all personal cars of department members shall have right-of-way over all other traffic when responding to an alarm; however, traffic signs and laws shall be observed.

(2) No person shall drive any vehicle over fire hose except upon specific orders from the ranking officer in charge where the hose is used.

(3) No person shall park any vehicle or otherwise cause any obstruction to be placed within twenty-five (25) feet of the entrance to any fire station or other place where fire apparatus is stored, or within fifteen (15) feet of any fire hydrant.

(4) No unauthorized person with any vehicle shall follow within six hundred (600) feet of any apparatus belonging to the department, or park any vehicle within three hundred (300) feet of a fire.

(5) All persons who shall be upon the streets of the City of Winchester at any time when the fire siren or alarm shall sound, whether they be pedestrian or whether they be riding in any sort of a vehicle, shall, immediately upon the sounding of such fire alarm, if walking, remain upon the sidewalks and not attempt to cross or walk upon the streets, and if they be riding in a vehicle, shall immediately bring such vehicle to rest at a parking place or alongside the curb of the street, and such persons shall so remain until after the passing of the

fire engine and department. (1983 Code, § 7-306, as amended by Ord. #699, April 1996)

7-307. Maliciously causing false alarms. Any person maliciously giving, or causing to be given, a false alarm of fire shall be deemed guilty of a misdemeanor. (1983 Code, § 7-307, as amended by Ord. #699, April 1996)

CHAPTER 4<sup>1</sup>

MISCELLANEOUS

SECTION

7-401. Reference to public safety department in code replaced.

7-401. Reference to public safety department in code replaced. Any other references in the Winchester Municipal Code to the public safety department are amended to reference the police department or fire department as appropriate. (1983 Code, § 7-401, as replaced by Ord. #699, April 1996, and Ord. #824, July 2004)

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<sup>1</sup>The original title 7 chapter 4 "Mutual Aid Agreements" was replaced by Ord. #824, July 2004.

## CHAPTER 5

FIREWORKS

## SECTION

- 7-501. Purpose.
- 7-502. Definition of terms.
- 7-503. Permits required.
- 7-504. Permit fee.
- 7-505. Privilege licenses required.
- 7-506. Permissible type of fireworks.
- 7-507. Conditions for sale and use permissible items.
- 7-508. Retail sale of permissible items - time limitations - exceptions.
- 7-509. Public displays - permits - regulation.
- 7-510. Regulations governing storing, locating or display of fireworks.
- 7-511. Unlawful acts in the sale, handling or private use of fireworks.
- 7-512. Seizure and destruction of fireworks.
- 7-513. Penalty for violation.
- 7-514. Exceptions to application.

7-501. Purpose. The purpose of this chapter is to provide for the manufacture, sale, display and use of certain fireworks for both private and public display within the corporate limits of the City of Winchester, Tennessee within certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (1983 Code, § 7-501, as replaced by Ord. #699, April 1996; and further replaced by Ord. #722, June 1997)

7-502. Definition of terms. As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise;

(1) "Distributor" means any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a retailer, wholesaler, or any person who receives, brings or imports any fireworks of any kind, in any manner into the city of Winchester, except to a holder of a manufacturer's distributor's or wholesaler's permit issued by the state fire marshal and the Winchester Fire Department.

(2) "D.O.T. Class C common fireworks" means all articles of fireworks as are now or hereafter classified as "D.O.T. Class C common fireworks" in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles;

(3) "Manufacturer" means any person engaged in the making, manufacture or construction of fireworks of any kind within the City of Winchester.

(4) "Permit" means the written authority of the Winchester Fire Department issued under the authority of this chapter;

(5) "Person" means any individual, firm, partnership or corporation;

(6) "Retailer" means any person engaged in the business of making retail sales of fireworks at specified times during the year as provided herein;

(7) "Sale" means an exchange of articles of fireworks for money and also includes the barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as principal, proprietor, salesman, agent, association, copartnership, or any one (1) or more individuals;

(8) "Special fireworks" means all articles of fireworks that are classified as Class B explosives in the regulations of the United States Department of Transportation and includes all articles other than those classified as Class C. (as added by Ord. #722, June 1997)

7-503. Permits required. It shall be unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into the City of Winchester except as herein provided any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler or retailer, from both the City of Winchester and the state fire marshal (as required by T.C.A. 68-104-101 et seq.), possession of said permits being hereby made a condition prerequisite to manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks into the City of Winchester except as herein provided. Permits issued under this section are not transferable. (as added by Ord. #722, June 1997)

7-504. Permit fee. The permit fee for the permit provided for in section 7-503 of this chapter shall be five hundred dollars (\$500.00) and the permit shall be valid for twelve (12) months. However, the City Council of Winchester may in its discretion waive the permit fee for any non-profit organization requesting the permit. (as added by Ord. #722, June 1997)

7-505. Privilege licenses required. The issuance of permits provided for herein shall not replace or relieve any person of state, county or municipal privilege licenses as now or hereafter provided by law. (as added by Ord. #722, June 1997)

7-506. Permissible type of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the City of Winchester, or ship into the City of Winchester, except as provided in this chapter, any pyrotechnics commonly known as "fireworks" other than the following permissible items:

(1) Those items now or hereafter classified as D.O.T. Class C common fireworks; or

(2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations. (as added by Ord. #722, June 1997)

7-507. Conditions for sale and use of permissible items. No permissible articles of common fireworks shall be sold, offered for sale, or possessed within the City of Winchester, or used within the city, except as herein provided unless it is properly named to conform to the nomenclature and unless it is certified as "common fireworks" on all shipping cases and by imprinting on the article or retail container "D.O.T. Class C common fireworks," such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public. (as added by Ord. #722, June 1997)

7-508. Retail sale of permissible items - time limitations - exceptions. Permissible articles of fireworks may be sold at retail in the city of Winchester and used within the City of Winchester from June 20th through July 5th, and December 10th through January 2 of each year only, except that "fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty five one-hundredths (25/100) 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 exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths (25/100) grains of explosive compounds, cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers, containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or perchlorate salts may not exceed five (5) grams of composition per item), emergency flares, matches, trick matches and cigarette loads, the sale and use of which shall be permitted at all times. (as added by Ord. #722, June 1997)

7-509. Public displays - permits - regulation. Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshall. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of Winchester shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulation or the United States Department of Transportation as "Class B special fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the Winchester Fire Department, and applied for and received a permit for such displays issued by the state fire marshall. Applicants for permits for such public displays shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possession of special fireworks for re-sale to holders of a permit for public fireworks display shall be confined to holders of a distributors permit only. (as added by Ord. #722, June 1997)

7-510. Regulations governing storing, locating or display of fireworks.

(1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten feet (10') of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "fireworks -- no smoking" in letters not less than four inches (4") high. No fireworks shall be sold at retail at any location where paints, oils or varnishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.

(2) All firework devices that are readily accessible to handling by consumers or purchasers must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision. (as added by Ord. #722, June 1997)

7-511. Unlawful acts in the sale, handling or private use of fireworks.

(1) It is unlawful to:

(a) offer for retail sale or to sell any fireworks to children under the age of ten (10) years or to any intoxicated or irresponsible person;

(b) explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school or within two hundred feet (200') of where fireworks are stored, sold or offered for sale;

(c) ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people.

(2) All items of fireworks which exceed the limits of D.O.T. Class C common fireworks as to explosive composition, such items being commonly referred to as "illegal ground salutes" designed to produce an audible effect, are expressly prohibited from shipment into, manufacture, possession, sale or use within the City of Winchester for any purpose. This subsection shall not effect display fireworks authorized by this chapter. (as added by Ord. #722, June 1997)

7-512. Seizure and destruction of fireworks. (1) The Winchester Fire Department shall seize as contraband any fireworks other than "Class C common fireworks" or "special fireworks" for public displays which are sold, displayed, used or possessed in violation of this chapter.

(2) Before any seized fireworks may be destroyed:

(a) If the owner of such seized fireworks is known, the Winchester Fire Department shall give notice by registered mail or personal service to such owner, of the fire department's intention to destroy such seized materials. Such notice shall inform the owner of the

owner's right to a hearing. Upon the request of the owner, the fire department shall conduct an appropriate contested case hearing concerning such destruction of fireworks in accordance with the Uniform Administrative Procedures Act, compiled in T.C.A. Title 4, Chapter 5.

(b) If the identity of the owner of any seized fireworks is not known to the Winchester Fire Department, the fire department personnel shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such seizure, and of the fire department's intention to destroy such fireworks. The notice shall be published once and if no person claims ownership of the fireworks within ten (10) days of the date of the publication, the Winchester Fire Department may proceed to destroy the fireworks. If the owner does claim the fireworks within the time specified, a hearing as set out in this subsection shall be held. (as added by Ord. #722, June 1997)

7-513. Penalty for violation. Any individual, firm, partnership or corporation that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than \$50.00. In addition, the Winchester Fire Department may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years.

7-514. Exceptions to application. (1) Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser first secures a written permit to purchase and use fireworks for agricultural purposes only from the state fire marshall, and after approval of the county agricultural agent of the county in which the fireworks are to be used and the fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the City of Winchester.

(2) Further exempt are fireworks and/or fireworks displays that might be other than the use of Class C common fireworks when used solely for a public exhibition of such items either when displayed or discharged.

(3) Such exhibitors of a public fireworks display for special events shall have prior approval by the Winchester City Council after application has been made and approved by the Winchester Fire Department.

(4) Items used in a special event fireworks display shall conform to, and be limited to, those guidelines and specifications as defined by the Winchester Fire Department such guidelines and specifications may be altered

or be designed specifically for each special event at the discretion of the Winchester Fire Department. (as added by Ord. #722, June 1997)

## Tenn. Code Ann. § 68-104-108

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### 68-104-108. Permissible fireworks.

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It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within this state, or ship into this state, except as provided in this chapter, any **pyrotechnics** commonly known as fireworks, other than the following permissible items:

- (1) Those items classified as D.O.T. Class C common fireworks; or
- (2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States consumer product safety commission and permitted for use by the general public under its regulations.

### History

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Acts 1959, ch. 159, § 4; T.C.A., § 53-3008; Acts 1983, ch. 188, § 7; T.C.A., § 68-22-108.